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Emergency Rules

DECLARATION OF EMERGENCY

Department of Health Board of Examiners for Licensed Professional Counselors

Criminal History Records (LAC 46:LX.Chapter 4)

The Louisiana Department of Health, Louisiana Licensed Professional Counselors Board of Examiners (LPCBE) has exercised the emergency provisions of the Administrative Procedures Act, specifically R.S. 49:953(B), to rescind rules relative to the Practice of Mental Health Counseling, specifically Chapter 4 of Board Rules. The LPCBE finds an imminent danger to the public's health, safety, and welfare if applications cannot be processed due to the closure of the Louisiana State Police office to the general public; thereby, requiring the immediate adoption of this rule to respond to the state's Covid-19 health emergency. The following Emergency Rule, effective March 23, 2020, shall remain in effect for a maximum of 120 days.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS REVISED

Part LX. Licensed Professional Counselors Board of Examiners

Subpart 1. Licensed Professional Counselors

Chapter 4. Criminal History Records

§401. Scope of Chapter

A. This Chapter governs the submission, retention, and use of criminal history records information in connection with applications for the initial license, renewal, or reinstatement of a license of PLPCs and LPCs license in conformity with R.S. 37:2372.1 and R.S. 37:1101-1123.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 45:275 (February 2019), amended LR 46:

§403. Criminal History Record Information

A. The submission and use of criminal history records information with applications for an initial and reinstatement of licensee shall begin January 1, 2019 and renewals shall begin January 1, 2020. In the renewal of licensure, a random sample of licensees shall be required to submit a criminal history record information with fingerprints.

B. The board shall utilize criminal history record information to determine an applicant's suitability and eligibility for licensure, and whether just cause exists for the board to refuse to issue, suspend, revoke, or impose probationary or other terms, conditions, or restrictions on any license held or applied for by an application for violation of any of these causes specified by R.S. 37:2359 or 37:2360, and the board's rules.

1. All applicants must submit a full set of fingerprints, and criminal history record information to the Board from the Louisiana State Police Bureau of criminal identification and information.

2. Fingerprints, and criminal history record information shall be submitted with application on board approved forms.

3. Criminal history record information shall require all applicants to report whether he or she has been convicted of sex crimes and is registered with any state sex offender and child predator registry as required by Louisiana State Statute.

4. Any applicant that does not include the applicant's fingerprints, and criminal history record information, and disclosure/ registry of conviction of sex crime shall be deemed incomplete and shall not be considered by the board unless and until such requirements have been satisfied.

C. The submission of an application for licensure to the board shall constitute acknowledgment and consent by the applicant to:

1. any state or federal agency, including, but not limited to, the bureau and the FBI, to disclose and release to the board any and all state, national, or foreign criminal history record information and sex crime conviction and registry;

2. disclosure and release of such information to the board constitutes a waiver by the applicant of any privilege or right of confidentiality;

3. allow the board to utilize criminal history record information to determine the applicant's suitability and eligibility for licensure to include but not limited to:

i. refuse to issue;

ii. suspend;

iii. revoke;

iv. impose probationary;

v. or other terms, conditions, or restrictions on any license held or applied for by an applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 45:275 (February 2019), amended LR 46:

§405. Confidentiality of Criminal History Record Information

A. Criminal history record information obtained by the board which is not already a matter of public record or to which the privilege of confidentiality has not otherwise been waived or abandoned, shall be deemed nonpublic and confidential information, restricted to and utilized exclusively by the board, its officers, members, investigators, employees, agents, and attorneys in evaluating applicant's eligibility or disqualification for licensure.

B. Criminal history record information shall not, except with the written consent of the applicant or by the order of a court, be released or otherwise disclosed by the board. However, that any such information or documents which are admitted into evidence and made part of the administrative record in any adjudicatory proceeding before the board shall become public records upon the filing of a petition for judicial review of the board's final decision therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 45:275 (February 2019), amended LR 46:

§407. Exceptions to Criminal History Information Requirement

A. The criminal history information requirements prescribed by the board shall not be applicable to licensed professional counselor or licensed marriage family therapist applicants seeking a temporary registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 45:275 (February 2019), amended LR 46:

§409. Falsification of Criminal Record Information

A. An applicant who denies the existence or extent of criminal history record information on an application shall be deemed to have provided false, misleading, and/or deceptive information on an application for licensure, and to have engaged in unprofessional conduct, providing cause for the board to disqualify, suspend or revoke licensure.

B. Falsification of criminal record information may result in a formal hearing before the board in accordance with Chapter 13.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 45:275 (February 2019), amended LR 46:

Jamie S. Doming
Executive Director

2004#018

DECLARATION OF EMERGENCY

**Department of Health
Board of Examiners for Licensed
Professional Counselors**

**Teletherapy Guidelines for Licensees and Definition of
Internet Counseling (LAC 46:LX.505)**

The Louisiana Department of Health, Louisiana Licensed Professional Counselors Board of Examiners has exercised the emergency provisions of the Administrative Procedures Act, specifically R.S. 49:953(B), to rescind rules relative to the Practice of Mental Health Counseling, specifically Section 505 and the definition of Internet Counseling in Section 503. The LPCBE finds an imminent danger to the public’s health, safety, and welfare; thereby, requiring the immediate adoption of this rule to respond to the Covid-19 health emergency. The following Emergency Rule, effective March 23, 2020, shall remain in effect for a maximum of 120 days.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS REVISED
Part LX. Licensed Professional Counselors
Board of Examiners**

Subpart 1. Licensed Professional Counselors

**§503. Definitions for Licensed Professional Counselors
and Provisional Licensed Professional
Counselors**

A. ...

* * *

Practice of Mental Health Counseling/Psychotherapy—

a. - g. ...

h. *Internet Counseling*—mental health services delivered over the internet are rendered where the patient/client is situated. All counselors/therapists serving Louisiana residents via internet counseling must be fully licensed in Louisiana and must adhere to all applicable state laws relative to the practice of mental health counseling. R.S. 37:1111 prohibits any person from engaging in the practice of mental health counseling in Louisiana unless he/she possesses a full and valid license issued by the Louisiana LPC board. No individuals holding a provisional license may engage in internet counseling.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 371101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Examiners of Professional Counselors, LR 14:83 (February 1988), amended by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 16:302 (April 1990), LR 18:51 (January, 1992), LR 22:101 (February 1996), LR 24:437 (March 1998), LR 24:2124 (November 1998), LR 26:493 (March 2000), LR 29:130 (February 2003), LR 33:2654 (December 2007), LR 39:1783 (July 2013), LR 41:710 (April 2015), amended by the Department of Health, Licensed Professional Counselors Board of Examiners LR 45:757 (June 2019), LR 46:

§505. Teletherapy Guidelines for Licensees

A. This Chapter defines and establishes minimum standards for the delivery of mental health counseling, psychotherapy, and marriage and family therapy services using technology-assisted media. Teletherapy references the provision of counseling and psychotherapy services from a distance which is consistent with the same standards of practice as in-person counseling settings.

B. Teletherapy is defined as a method of delivering mental health counseling, psychotherapy, and marriage and family therapy services as prescribed by R.S. 37:1101 and R.S. 37:1116 using interactive technology-assisted media to facilitate prevention, assessment, diagnosis, and treatment of mental, emotional, behavioral, relational, and addiction disorders to individuals, groups, organizations, or the general public that enables a licensee and a client(s) separated by distance to interact via synchronous video and audio transmission.

C. The board recognizes that safe and effective practices in teletherapy require specific training, skills, and techniques and has set forth the following regulatory standards to ensure competence and safety. This Rule shall not be construed to alter the scope of practice of any licensee or authorize the delivery of services in a setting, or in a manner, not otherwise authorized by law. Nothing in this Section shall preclude a client from receiving in-person counseling, psychotherapy, and marriage and family therapy services after agreeing to receive services via telemental health. Teletherapy shall be delivered in real-time (synchronous) using technology-assisted media such as telephonic and videoconferencing through computers and mobile devices. The use of asynchronous modalities (e-mail, chatting, texting, and fax) is not appropriate and shall not be used for teletherapy, except in a crisis to ensure the client's safety and stability.

D. Licensees shall provide services consistent with the jurisdictional licensing laws and rules in both the jurisdiction in which licensee is physically located and where the client is physically located. Licensees providing teletherapy services to clients outside of Louisiana must comply with the regulations in the state in which the client is located at the time of service. The licensee shall contact the licensing board in the state where the client is located and document all relevant regulations regarding teletherapy. A nonresident of Louisiana who wishes to provide teletherapy health services in Louisiana must be licensed by the board.

E. Teletherapy is a specialty area and requires board approval. Licensees who may provide teletherapy must meet the following requirements.

1. The licensee must be licensed in Louisiana.
2. The licensee must be licensed in the state where the client is located if licensing is required.
3. The licensee must have been practicing for at least one year.
4. The licensee must complete either option below.
 - a. Graduate-Level Academic Training. At least one graduate-level academic course in telemental health counseling. The course must have included at least 45 clock hours (equivalent to a three-credit hour semester course).
 - b. Professional Training with a minimum of nine synchronous clock hours in teletherapy. The presenter shall meet continuing education standards established by the board. Teletherapy education/training shall include but is not limited to:
 - i. appropriateness of teletherapy;
 - ii. teletherapy theory and practice;
 - iii. theory integration;
 - iv. modes of delivery;
 - v. risk management;
 - vi. managing emergencies;
 - vii. legal/ethical issues.
5. Licensees privileged in teletherapy must accrue three clock hours of continuing education during each renewal period.

F. At the onset of teletherapy, the licensee shall obtain verbal and/or written informed consent from the client and shall document such consent in the client's record.

1. Electronic signature(s) and date may be used in the documentation of informed consent.

2. Provisions of informed consent for teletherapy services shall include:

- a. mode and parameter of technology-assisted media(s), and technical failure;
- b. scheduling and structure of teletherapy;
- c. risks of teletherapy;
- d. privacy and limits of confidentiality;
- e. contact between sessions;
- f. emergency plan;
- g. consultation and coordination of care with other professionals;
- h. referrals and termination of services;
- i. information and record keeping;
- j. billing and third-party payors;
- k. ethical and legal rights, responsibilities, and limitations within and across state lines and/or international boundaries.

G. The licensee shall provide each client with his/her declaration or statement of practice on file with the board office.

H. At the onset of each session the licensee shall verify and document the following:

1. The identity and location of the licensee and the client. If the client is a minor, the licensee must also verify the identity of the parent or guardian consenting to the minor's treatment. In cases where conservatorship, guardianship, or parental rights of the minor client have been modified by the court, the licensee shall obtain and review a copy of the custody agreement or court order before the onset of treatment.

2. The location and contact information of the emergency room and first responders nearest to the client's location.

I. The licensee shall determine if the client may be properly diagnosed and/or treated via teletherapy; and shall affirm that technology-assisted media are appropriate for clients with sensory deficits. The licensee shall affirm the client's knowledge and use of selected technology-assisted media(s) (i.e., software and devices). Clients who cannot be diagnosed or treated properly via teletherapy services shall be dismissed and treated in-person, and/or properly terminated with appropriate referrals. The licensee shall use technology assisted media(s) that is in compliance with HIPPA and HiTECH standards. The licensee shall not use social media platforms or functions (tweets, blogs, networking sites, etc.) in the delivery of teletherapy, and shall not reference clients generally or specifically on such formats.

J. Policies and procedures for the documentation, maintenance, access, transmission and destruction of record and information using technology assisted media shall be consistent with the same ethical and regulatory standards for in-person services. Services must be accurately documented in teletherapy services, denoting the distance between the licensee and the client. Documentation shall include verification of the licensee's and client's location, type of service(s) provided the date of service, and duration of service. The licensee shall inform clients of how records are maintained, type of encryption and security assigned to the records, and how long archival storage is maintained.

K. Telesupervision is defined as a method delivering clinical mental health and marriage and family therapy supervision as prescribed by R.S. 37:1101 and R.S. 37:1116 using technology-assisted media that enables a supervisor and a supervisee separated by distance to interact via synchronous video and audio transmissions. Up to 25 percent of total supervision hours may be used within a telesupervision format.

1. Teletherapy supervision may include but is not limited to, the review of case presentation, audio tapes, video tapes, and observation to promote the development of the practitioner's clinical skills.

2. Teletherapy supervision shall be provided in compliance with the same ethical and regulatory standards as in-person supervision.

3. The supervisor shall inform supervisees of the potential risks and benefits associated with telesupervision.

4. The supervisor shall determine if the supervisee may be properly supervised via teletherapy supervision. Supervisees who cannot be supervised via teletherapy supervision shall be restricted to in-person supervision, and/or properly terminated with appropriate referrals.

5. The supervisor shall affirm the supervisee's knowledge and use of selected technology-assisted media(s) (i.e., software and devices).

6. The supervisor shall use technology assisted media(s) that is in compliance with HIPPA and HiTECH standards.

7. The supervisor shall not use social media platforms or functions (tweets, blogs, networking sites, etc.) in the delivery of teletherapy supervision, and shall not reference supervisee generally or specifically on such formats.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1101-1123.

HISTORICAL NOTE: Promulgated by the Department of Health, Licensed Professional Counselors Board of Examiners, LR 45:438 (March 2019), amended LR 46:

Jamie S. Doming
Executive Director

2004#017

DECLARATION OF EMERGENCY

Department of Health Board of Medical Examiners

Medical Professions; Restricted Temporary Permits;
Emergency Temporary Permit
(LAC 46:XLV.402 and 412)

The Louisiana State Board of Medical Examiners has exercised the emergency provisions of the Administrative Procedure Act, specifically at R.S. 49:953B, to promulgate amendments to its existing rules in Subpart 2, Chapter 4, (§402.D and §412.H) and adopt a new Subsection (§412.L) to provide for emergency temporary permits for formerly licensed Louisiana physicians and allied health care practitioners during the COVID-19 emergency.

Federal and state governments are responding to an outbreak of respiratory disease caused by a coronavirus identified as SARS-CoV-2 and the disease it causes, Coronavirus disease 2019, which is abbreviated COVID-19.

The state of Louisiana is currently in a public health emergency under R.S. 29:760 et seq. The governor has instructed that "all departments, commissions, boards, agencies and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate in actions the state may take in response to the effects of this event." 25 JBE 2020 (Section 11). The governor, in an attempt to increase the number of health care providers in Louisiana, has suspended Louisiana state licensure laws, rules, and regulations for medical professionals and personnel for those medical professionals and personnel from other states or other countries offering medical services in Louisiana to those needing medical services as a result of this disaster. 29 JBE 2020.

The board has been notified that both local hospitals and the Louisiana Department of Health and Hospitals have expressed concern that there is a shortage of licensed, healthy health care providers to tend to the public, both those affected with COVID-19, as well as those suffering from other ailments, and those injured or in need of care.

The board has determined this Emergency Rule is necessary to prevent imminent peril to the public health, safety, and welfare to respond to the COVID-19 emergency. This Declaration of Emergency is effective March 30, 2020 and shall remain in effect for the maximum time period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever shall first occur.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Subchapter H. Restricted Licensure, Permits

§402. Provisional Temporary Permit Pending Results of Criminal History Record Information

A. - C. ...

D. The board may waive the procedures and requirements for submitting, requesting and obtaining criminal history record information, specified in §402.A, for a non-renewable provisional temporary permit issued under this Subchapter that is effective for not more than 90 days or an emergency temporary permit issued under §412 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1275 and R.S. 37:1277, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 27:843 (June 2001), amended LR 33:1344 (July 2007), LR 36:1243 (June 2010), amended, LR 46:

§412. Emergency Temporary Permits

A. - G.3. ...

H. The board may, in its discretion, extend or renew an expired emergency temporary permit for additional 60-day periods provided all conditions prerequisite to original issuance are satisfied.

I. - K. ...

L. The board may, upon its electronic receipt of a completed application and/or such information as may be required to verify the individual as a former licensee, issue a permit under this Section to an individual who does not possess a current license to practice medicine or as allied health care practitioner in this state, provided:

1. such individual:
 - a. was formerly licensed by the board;
 - b. was not, in the preceding 15 years, disciplined by the board;
 - c. at the time his or her license last expired, held an unrestricted license in-good standing with the board and was not subject to board order, investigation or disciplinary proceedings;
 - d. affirms that there is no known condition that would impair his/her ability to practice safely;
 - e. practices within the scope and expertise of his/her education, training and experience and that of the formerly held license issued by the board;
 - f. has made arrangements and registered to provide health care services with a hospital, institution or facility licensed by the Louisiana Department of Health (LDH) or at another site approved by LDH or the board, that:
 - i. is registered as a host entity pursuant to the Uniform Emergency Volunteer Health Practitioners Act, La. R.S. 29:781, et seq.; and
 - ii. initiated the individual's application process by providing electronic confirmation to the LDH and the board that it supports permit issuance and will accept, credential and grant privileges to the individual to provide voluntary health care services for the facility.
 - g. limits the provision of health care services to patients of the hospital, institution or facility licensed by LDH or at another site specified or approved by LDH or the board, at which he is registered to provide services pursuant to the Uniform Emergency Volunteer Health Practitioners Act, R.S. 29:781, et seq.

2. A permit issued under §412L shall be available to a physician who holds a reduced-fee license pursuant to §418 of this Part without the necessity of satisfying the requirements of §418C.

3. Permit issuance under this Section may be verified from the board's website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 1275; R.S. 37:3301-3312; R.S. 37:3421-3433; R.S. 37:1311-1329; R.S. 37:3240-3257; R.S. 37:3001-3014; R.S. 37:1331-1343; R.S. 37:1360.21-1360.38; R.S. 37:611-628; R.S. 37:2861-2870; R.S. 37:1292; R.S. 37:3351-3361 and R.S. 29:769(E), R.S. 29:785 and R.S. 29:788.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 33:91 (January 2007), amended by the Board of Medical Examiners, Department of Health, LR 46:

Vincent A. Culotta, Jr., M.D.
Executive Director

2004#024

DECLARATION OF EMERGENCY

**Department of Health
Board of Nursing**

Continuing Education—Nursing Practice
(LAC 46:XLVII.3335)

The Louisiana State Board of Nursing (LSBN) has exercised the emergency provisions of the Administrative Procedure Act, specifically R.S. 49:953(B), and through the authority granted in R.S. 37: 918, and in accordance with

Executive Department Proclamation Number 38-JBE-2020 to adopt an Emergency Rule which will add additional language to Chapter 33, §3335. The added language in §3335 will give the board the ability to temporarily waive the requirements for continuing education related to the reinstatement of lapsed, inactive, or retired registered nurses (RN) licenses during a public health emergency. Any license reinstated under this exception shall meet the continuing education requirements to maintain licensure following the public health emergency.

In accordance with the Governor Edwards' Proclamation Number 38-JBE-2020, §2(P), the LSBN is adopting this Rule to amend/waive a rule that interferes with the licensing of healthcare providers that are necessary to address the declared public health emergency.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLVII. Nurses: Practical Nurses and Registered
Nurses**

Subpart 2. Registered Nurses

Chapter 33. General

**Subchapter C. Registration and Registered Nurse
Licensure**

§3335. Continuing Education—Nursing

A. - D.2.f. ...

3. Public Health Emergency Exception

a. During a public health emergency, the board may waive the requirements for continuing education in 3335.D.1-2 for reinstatement of any RN license which has lapsed, has been inactive, or has been retired.

b. Any license reinstated under this provision shall meet the continuing education requirements to maintain licensure after the public health emergency has diminished as determined by the board.

E. - J.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:911, R.S. 37:918 (4), (12), and R.S. 37:920.E

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 16:1058 (December 1990), amended LR 21:267 (March 1995), LR 21:804 (August 1995), LR 24:1293 (July 1998), LR 25:514 (March 1999), LR 26:83 (January 2000), LR 27:729 (May 2001), LR 34:440 (March 2008), LR 46:

Interested persons may submit written comments to Karen C. Lyon, CEO/ Executive Director, Louisiana State Board of Nursing, 17373 Perkins Road, Baton Rouge, LA 70810 or emailed to lyonk@lsbn.state.la.us.

Karen C. Lyon
Executive Director

2004#031

DECLARATION OF EMERGENCY

**Department of Health
Board of Nursing**

Licensure by Examination (LAC 46:XLVII.3325)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37: 918, that Louisiana State Board of Nursing (LSBN) is requesting an Emergency

Rule, which will add additional language to Chapter 33, §3325. The added language in §3325 will address the public health emergency crisis that is currently taking place in Louisiana. These changes will allow the board to issue pre-graduation RN applicant disaster permits during a public health emergency. The Emergency Rule provides: (1) applicants must meet eligibility requirements set forth in 3325.B apart from fulfilling the completion of a nursing education program, (2) applicants must submit a written request via the on-line nurse portal, (3) the director of the school of nursing shall verify that the applicant is a student in good standing and scheduled to graduate in the current semester, (4) permits are valid for 120 days with possible 90-day interval extensions, (5) the permit shall be recalled if the board receives allegations of acts or omissions which constitute grounds for disciplinary action as defined in the Nurse Practice Act (R.S. 37:911 et seq.) and/or the *Louisiana Administrative Code* (LAC 46:XLVII.Subpart 2 Registered Nurses), (6) the title of permit holders shall be “preRN App” for all records, and (7) permit holders must meet all licensure requirements after the public health emergency in order to obtain a RN license.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses: Practical Nurses and Registered Nurses

Subpart 2. Registered Nurses

Chapter 33. General Subchapter C. Registration and Registered Nurse Licensure

§3325. Licensure by Examination

A. - D. ...

E. Pre-graduation RN Applicant Disaster Permit

1. The board may issue pre-graduation RN applicant disaster permits to nursing students currently enrolled in their last semester of a nursing education program approved by the board during a public health emergency, and for such periods thereafter as approved by the board.

2. All eligibility requirements set forth in 3325.B must be met with the exception of 3325.B.2, which requires successful completion of a nursing education program.

3. RN examination applicants seeking a pre-graduation RN applicant disaster permit shall submit a written request through the message center of the nurse portal.

4. The director of the school of nursing shall verify that the applicant is a student in good standing and scheduled to graduate in the current semester on a form provided by the board.

5. Pre-graduation RN applicant disaster permits shall be valid for 120 days and may be extended for additional 90-day increments as determined appropriate and necessary by the board.

6. If allegations of acts or omissions which constitute grounds for disciplinary action as defined in R.S. 37:911 et seq., or any rule promulgated by the board is received during the permit interval, the pre-graduation RN applicant disaster permit shall be recalled.

7. Individuals who have been issued a temporary disaster permit under this rule may refer to themselves as “preRN App” after signatures on records.

8. The pre-graduation RN applicant disaster permit is limited as follows.

a. The pre-grad RN applicant shall practice only in nursing situations where direct RN supervision is available.

b. The pre-grad RN applicant shall assume only those responsibilities and functions commonly included in the staff nurse position.

c. The pre-grad RN applicant shall be limited to practice in Louisiana under this disaster permit.

9. The issuance of a pre-graduate RN applicant disaster permit does not negate licensure requirements following the public health emergency, included but not limited to successful completion of a nursing education program, recommendation by the director of the school of nursing, and passage of NCLEX-RN licensure exam.

AUTHORITY: Promulgated in accordance with R.S. 37:918, 37:920 and 37:921.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:77 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 21:804 (August 1995), LR 23:960 (August 1997), LR 24:1293 (July 1998), LR 46:

Interested persons may submit written comments to Karen C. Lyon CEO/Executive Director, Louisiana State Board of Nursing, 17373 Perkins Road, Baton Rouge, La 70810 or emailed to lyonk@lsbn.state.la.us.

Karen C. Lyon
Executive Director

2004#080

DECLARATION OF EMERGENCY

Department of Health Board of Nursing

Temporary Permits
(LAC 46:XLVII.3329 and 4513)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq., and through the authority granted in R.S. 37:917-918, that Louisiana State Board of Nursing (LSBN) is requesting an Emergency Rule which will add additional language to Chapter 33, Section 3329 and Chapter 45, Section 4513. The added language in Sections 3329 and 4513 will address the public health emergency crisis that is taking place in Louisiana. In Chapter 33, Section 3329 the board may extend the expiration of temporary permits for new graduates who have been unable to take the NCLEX-RN licensure exam or reinstate an expired permit during a public health emergency. Any permit that is granted because of the emergency shall be valid for 120 days and may be extended in increments of 90-day intervals. The added language to Chapter 45, Section 4513 provides an exception which will allow “an APRN practicing with a previously approved collaborating physician at a new site otherwise not previously reported to the board may continue to practice during the time of the declared emergency or disaster under the parameters of the signed collaborative practice agreement”. The Emergency Rule is effective March 19, 2020.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XLVII. Nurses: Practical Nurses and Registered Nurses

Subpart 2. Registered Nurses

Chapter 33. General Subchapter C. Registration and Registered Nurse Licensure

§3329. Temporary Permits

A. - A.4. ...

5. Public Health Emergency Exception

a. The board may extend the expiration of a temporary permit or reinstate an expired permit during a public health emergency and for such periods thereafter as approved by the board for graduates who have not taken the NCLEX-RN provided that:

i. the person is a graduate of an approved school and has a pending application for initial licensure submitted within the immediately preceding calendar year

ii. there is not evidence of violation of this Part or of LAC 46:XLVII. 3331;

iii. there are no allegations of acts or omissions which constitute grounds for disciplinary action as defined in R. S. 37:921 and LAC 46:XLVII.3403 and 3405.

b. Any permit extended or reinstated in accordance with the public health emergency exception shall be valid for 120 days and may be extended for additional 90-day increments upon written request and as determined appropriate and necessary by the board.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, 920 and 921

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:78 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 23:961 (August 1997), LR 24:1293 (July 1998), LR 28:2513 (December 2002), LR 33:460 (March 2007), LR 37:3026 (October 2011), LR 46:

Chapter 45. Advanced Practice Registered Nurses

§4513. Authorized Practice

A. - D.8.a. ...

i. Exception to 4513.D.8.a:in cases of a declared emergency or disaster, as defined by the Louisiana Health Emergency Powers Act, La R.S. 29:760 et Seq., or as otherwise provided in title 29 of the Revised Statutes of 1950, an APRN Practicing with a previously approved collaborating physician at a new site otherwise not previously reported to the board may continue to practice during the time of a declared emergency or disaster under the parameters of the signed collaborative practice agreement.

8.b. - 17.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918 (k) and R.S. 37: 1031 - 1034

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing , LR 10:598 (August 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 22:283 (April 1996), amended by the Department of Health and Hospitals, Board of Nursing and Board of Medical Examiners, LR 22:981 (October 1996), LR 25:1245 (July 1999), LR), amended by the Department of Health and Hospitals, Board of Nursing 27: 727 (May 2001), amended by

the Department of Health and Hospitals, Board of Medical Examiners, LR 28:487 (March 2002), repromulgated LR 28:1205 (June 2002), amended by the Department of Health and Hospitals, Board of Nursing, LR 40:63 (January 2014) , LR 40:2249 (November 2014), LR 42:572 (April 2016), amended by the Department of Health, Board of Nursing LR 44:276 (February 2018), LR 45:1202 (September 2019), Department of Health, Louisiana State Board of Nursing LR 46:

Interested persons may submit written comments to Karen C. Lyon, CEO/Executive Director, Louisiana State Board of Nursing, 17373 Perkins Road, Baton Rouge, LA 70810 or emailed to lyonk@lsbn.state.la.us.

Karen C. Lyon
Executive Director

2004#009

DECLARATION OF EMERGENCY

Department of Health
Board of Pharmacy

Limitation on Dispensing Chloroquine and Hydroxychloroquine for COVID-19 (LAC 46:LIII.1145)

The Louisiana Board of Pharmacy is exercising the emergency provisions of the Administrative Procedure Act, specifically at R.S. 49:953(B), to promulgate a new rule to limit the dispensing of chloroquine and hydroxychloroquine for COVID-19 by pharmacists.

Federal and state governments are responding to an outbreak of respiratory disease caused by a coronavirus identified as SARS-CoV-2 and the disease it causes, coronavirus disease 2019, which is abbreviated COVID-19.

The board has become aware of a significant increase in the prescribing of chloroquine and hydroxychloroquine as a result of the COVID-19 outbreak. Further, we have received reports of inappropriate use, hoarding, and restricted distribution of the drugs. As a consequence, hospitals treating patients with confirmed cases of the disease are having difficulty obtaining adequate supplies of the drugs.

While the drug manufacturers have committed to increasing their production, it will take time for that supply chain to be replenished. In the interim, the board intends to limit the dispensing of chloroquine and hydroxychloroquine by pharmacists.

The board has determined this Emergency Rule is necessary to prevent imminent peril to the public health, safety, and welfare. This declaration of emergency is effective March 22, 2020 and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final Rule, whichever shall first occur.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part LIII. Pharmacists

Chapter 11. Pharmacies

§1145. State of Emergency

A. Limitation on Dispensing Chloroquine and Hydroxychloroquine for COVID-19

B. No prescription or medical order for chloroquine or hydroxychloroquine may be dispensed by a pharmacist for a COVID-19 diagnosis unless all of the following apply:

1. the prescription or medical order bears a diagnosis code from the prescriber;
2. the diagnosis has been confirmed by a positive test result which is documented on the prescription or medical order;
3. the dispensing quantity shall be limited to a maximum of a 14-day supply; and
4. no refills may be permitted unless a new prescription or medical order is furnished.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 46:

Malcolm Broussard
Executive Director

2004#012

DECLARATION OF EMERGENCY

Department of Health Board of Pharmacy

Limitation on Dispensing Chloroquine and Hydroxychloroquine for COVID-19 (LAC 46:LIII.1145)

The Louisiana Board of Pharmacy issued an Emergency Rule on March 22, 2020 to limit the dispensing of chloroquine and hydroxychloroquine by pharmacists when prescribed for the COVID-19 outbreak. As described in the Declaration of Emergency, the rule was premised on a shortage of the products sufficient that hospitals attempting to treat their patients with confirmed cases were unable to obtain adequate supplies of the drugs to do so. In addition, the board had received reports of hoarding and inappropriate use of the products. Although drug manufacturers had committed to increasing their production, their expected timeframe for resolution of the shortage was six to eight weeks. The board determined it appropriate to limit the dispensing of those products for a brief period of time to resolve the supply chain issue.

With new information about a significant donation and distribution of the products to hospital pharmacies, and with the removal of those drugs from the federal Food and Drug Administration's list of drugs in shortage, it appears the basis for the Emergency Rule has been resolved. The board has determined it appropriate to rescind the Emergency Rule effective March 23, 2020.

Malcolm Broussard
Executive Director

2004#016

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Dental Benefits Prepaid Ambulatory Health Plan Network Provider Reimbursement (LAC 50:1.2111)

The Department of Health, Bureau of Health Services Financing amends LAC 50:I.2111 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

Act 10 of the 2019 Regular Session of the Louisiana Legislature directed the Department of Health, Bureau of Health Services Financing to increase reimbursement rates for dental exams for children under three years of age and restorative dental services provided to Medicaid recipients. In compliance with Act 10, the department amends the provisions governing the dental benefits prepaid ambulatory health plan in order to increase reimbursement for dental exams for children under three years of age and restorative dental services.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued access to dental services. It is estimated that implementation of this Emergency Rule will increase programmatic costs in the Medicaid Program by \$7,780,273 for state fiscal year 2019-2020.

Effective March 23, 2020 the Department of Health, Bureau of Health Services Financing amends the provisions governing the dental benefits prepaid ambulatory health plan in order to increase reimbursement for dental exams for children under three years of age and restorative dental services.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part 1. Administration

Subpart 3. Managed Care for Physical and Behavioral Health

Chapter 21. Dental Benefits Prepaid Ambulatory Health Plan

§2111. Payment Methodology

A. - G. ...

H. Network Provider Reimbursement

1. The DBPM shall provide reimbursement for defined core dental benefits and services provided by an in-network provider pursuant to the terms of its contract with the department.

H.2. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:788 (April 2014), amended LR 46:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Erin Campbell, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Campbell is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Stephen R. Russo, JD
Interim Secretary

2004#020

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Emergency Telemedicine
(LAC 50:I.505)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:I.505 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Bureau of Health Services Financing adopts provisions governing coverage of telemedicine during a declared disaster.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued and expanded access to telemedicine services during a declared emergency. It is estimated that implementation of this Emergency Rule will have no programmatic costs for state fiscal year 2019-2020.

Effective March 16, 2020, the Department of Health, Bureau of Health Services Financing adopts provisions governing the coverage of telemedicine during a declared emergency.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 1. General Provisions

Chapter 5. Telemedicine

§505. Telemedicine in the Event of an Emergency

A. In the event of a declared emergency, Medicaid may temporarily cover services provided through the use of an interactive audio telecommunications system, without the requirement of video, if such action is determined to be

necessary to ensure sufficient services are available to meet recipients' needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 46:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Erin Campbell, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Campbell is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Stephen R. Russo, JD
Interim Secretary

2004#003

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Medical Transportation Program
Non-Emergency Medical Transportation
(LAC 50:XXVII.541)

The Department of Health, Bureau of Health Services Financing amends LAC 50:XXVII.541 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing provider enrollment in the non-emergency medical transportation (NEMT) program in order to lower the minimum liability insurance coverage requirements and reduce insurance premiums paid by NEMT providers. This Emergency Rule also removed language referring to prepayment of premiums from the administrative Rule to align with current practices (*Louisiana Register*, Volume 46, Number 1). This Emergency Rule is being promulgated in order to continue the provisions of the December 27, 2019 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued access to non-emergency medical transportation services.

Effective April 26, 2020, the Department of Health, Bureau of Health Services Financing amends the provisions governing minimum liability insurance coverage requirements for providers enrolled in the non-emergency medical transportation program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXVII. Medical Transportation Program

Chapter 5. Non-Emergency Medical Transportation

Subchapter C. Provider Responsibilities

§541. Provider Enrollment

A. All transportation providers must comply with the published rules and regulations governing the Medicaid Transportation Program, all state laws, and the regulations of any other governing state agency or commission or local entity to which they are subject as a condition of enrollment and continued participation in the Medicaid Program.

B. Non-emergency medical transportation profit providers shall have a minimum liability insurance coverage of \$25,000 per person, \$50,000 per accident and \$25,000 property damage policy.

1. The liability policy shall cover any and all:
 - a. – b. ...
 - c. non-owned autos; or
 - d. scheduled autos;
 - e. hired autos; and
 - f. non-owned autos.

2. Statements of insurance coverage from the agent writing the policy will not be acceptable. Proof must include the dates of coverage and a 30-day cancellation notification clause. Proof of renewal must be received by the department no later than 48 hours prior to the end date of coverage. The policy must provide that the 30-day cancellation notification be issued to the Bureau of Health Services Financing.

3. Upon notice of cancellation or expiration of the coverage, the department will immediately revoke the provider’s Medicaid provider agreement. The ending date of the provider’s participation in the Medicaid program shall be the ending date of insurance coverage. Retroactive coverage statements will not be accepted.

C. As a condition of reimbursement for transporting Medicaid recipients to medical or behavioral health services, family and friends must maintain the state minimum automobile liability insurance coverage, a current state inspection sticker, and a current valid driver’s license. No special inspection by the department will be conducted. Proof of compliance with the three listed requirements for this class of provider must be submitted when enrollment in the department is sought. Proof shall be the sworn and notarized statement of the individual enrolling for payment, certifying that all three requirements are met. Family and friends may be enrolled and allowed to transport up to three specific Medicaid recipients or all members of one household. The recipients to be transported by each such provider will be noted in the computer files of the department. Individuals transporting more than three Medicaid recipients shall be considered profit providers and shall be enrolled as such.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 20:1115-1117 (October 1994), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1092 (July 2016), LR 46:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Erin Campbell, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Campbell is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Stephen R. Russo, JD
Interim Secretary

2004#075

DECLARATION OF EMERGENCY

**Department of Health
Bureau of Health Services Financing
and
Office of Aging and Adult Services
and
Office of Behavioral Health**

Programs and Services Amendments due to
the Coronavirus Disease 2019 (COVID-19)
Statewide Public Health Emergency

On January 30, 2020, the World Health Organization declared a public health emergency of international concern and on January 31, 2020, U.S. Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the United States in response to the recent coronavirus disease 2019 (hereafter referred to as COVID-19) outbreak. On March 11, 2020, Governor John Bel Edwards declared a statewide public health emergency to exist in the State of Louisiana as a result of the imminent threat posed to Louisiana citizens by COVID-19. Likewise, the presidential declaration of the public health emergency related to COVID-19 has an effective date of March 1, 2020.

In response to these public health emergency declarations and the rapid advancement of COVID-19 throughout Louisiana, the Department of Health, Bureau of Health Services Financing, the Office of Aging and Adult Services (OAAS), and the Office of Behavioral Health (OBH) hereby amend the provisions of Title 50 of the Louisiana Administrative Code in order to adopt temporary measures to provide for the continuation of essential programs and services to ensure the health and welfare of the citizens of Louisiana in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. This Emergency Rule shall be in effect for the maximum period allowed under the Act or the duration of the COVID-19 statewide public health emergency declaration, whichever comes first.

The department amends Title 50 of the Louisiana Administrative Code to enact the following provisions throughout the duration of the COVID-19 presidential public health emergency declaration:

**Nursing Facilities—Reimbursement Methodology—
Reimbursement Adjustment (LAC 50:II.20006)**

The per diem rate paid to non-state nursing facilities shall contain an add-on of \$12 for the period of the presidential COVID-19 declaration.

**Nursing Facilities—Reimbursement Methodology—
Leave of Absence Days (LAC 50:II.20021)**

For each Medicaid recipient, nursing facilities shall be reimbursed for up to seven hospital leave of absence days per occurrence and 15 home leave of absence days per calendar year.

For dates of service during the presidential COVID-19 declaration, the state may allow the reimbursement paid for leave of absence days to be equal to 100 percent of the applicable per diem rate.

**Intermediate Care Facilities for Persons with Intellectual
Disabilities—Emergency Awareness—Payment
Limitations (LAC 50:VII.33101)**

For dates of service during the presidential COVID-19 declaration, the state may waive the annual 45 day limit on the client's leave of absence, the limitation of 30 consecutive days, and the inclusion of the leave in the written individual habilitation plan for recipients that return to the facility for at least 24 hours prior to any discharge/transfer.

Payments to providers for these days will not include any enhanced rate add-ons (i.e., Complex Care, Pervasive Plus), and providers will appropriately submit them as leave days when billing for payment.

**Services for Special Populations—Personal Care Services
(LAC 50:XV.Subpart 9)**

Relaxation of long term-personal care services (LT-PCS) provisions during the presidential COVID-19 declaration:

Recipients of long term-personal care services (LT-PCS) may receive more weekly service hours than what is assigned for his/her level of support category;

The state may increase the maximum number of LT-PCS hours received per week;

Recipients may receive LT-PCS in another state without prior approval of OAAS or its designee;

Recipients may receive LT-PCS while living in a home or property owned, operated or controlled by a provider of services who is not related by blood or marriage to the recipient;

Individuals may concurrently serve as a responsible representative for more than two recipients without an exception from OAAS;

The following individuals may provide services to the recipient of LT-PCS: the recipient's spouse; the recipient's curator; the recipient's tutor; the recipient's legal guardian; the recipient's responsible representative; or the person to whom the recipient has given representative and mandate authority (also known as power of attorney);

The state may allow exceptions to the requirements that services must be provided in accordance with the approved plan of care and/or supporting documentation;

The state may allow exceptions to LT-PCS prior authorization requirements;

The state may increase and/or modify reimbursement rates for LT-PCS;

Recipients may orally designate/authorize or make changes to the responsible representative during the

emergency. However, once the emergency declaration is over, the recipient must submit a written designation on the appropriate OAAS form to designate a responsible representative;

The state may offer recipients the freedom to choose another LT-PCS provider if the designated provider is not able to provide services;

The state may modify the minimum age requirement for direct care workers; and

The state may allow exceptions to the requirement that the place(s) of service must be documented in the plan of care.

**Home and Community-Based Services Waivers—Adult
Day Health Care Waiver (LAC 50:XXI.Subpart 3)**

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Adult Day Health Care (ADHC) Waiver are relaxed during the presidential COVID-19 declaration:

Adult Day Health Care (ADHC) Waiver participants are allowed to receive ADHC services in his/her home by licensed and/or certified ADHC staff (i.e. RN, LPN, PCA and/or CNA);

The current assessments/re-assessments remain in effect past the annual (12 month) requirement;

Participants are not discharged if services are interrupted for a period of 30 consecutive days as a result of not receiving or refusing ADHC services;

Participants are not discharged for failure to attend the ADHC center for a minimum of 36 days per calendar quarter;

The state may elect to make retainer payments to ADHC providers when the ADHC center is closed;

Individuals may concurrently serve as a responsible representative for more than two participants without an exception from OAAS;

The state may allow exceptions to prior authorization requirements;

The state may increase and/or modify reimbursement rates for ADHC providers; and

The state may allow exceptions to the requirements that services must be provided in accordance with the approved plan of care and/or supporting documentation.

**Home and Community-Based Services Waivers—
Community Choices Waiver (LAC 50:XXI.Subpart 7)**

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Community Choices Waiver (CCW) are relaxed during the presidential COVID-19 declaration:

Community Choices Waiver (CCW) participants are allowed to receive personal assistance services (PAS) in another state without prior approval of OAAS or its designee;

Participants may receive PAS while living in a home or property owned, operated or controlled by a provider of services who is not related by blood or marriage to the participant without prior approval of OAAS or its designee;

The current assessment/re-assessment remains in effect past the annual (12 month) requirement;

CCW participants are not discharged if services are interrupted for a period of 30 consecutive days as a result of not receiving and/or refusing services;

Participants are not discharged from CCW self-directed services for failure to receive those services for 90 days or more;

Individuals may concurrently serve as a responsible representative for more than two participants without an exception from OAAS;

Participants may receive an increase in his/her annual services budget;

The following individuals may provide services to the participant: the participant's spouse; the participant's curator; the participant's tutor; the participant's legal guardian; the participant's responsible representative; or the person to whom the participant has given representative and mandate authority (also known as power of attorney);

Participants may receive Adult Day Health Care (ADHC) services in his/her home by licensed and/or certified ADHC staff (i.e. RN, LPN, PCA and/or CNA);

The state may elect to make retainer payments to ADHC providers when the ADHC center is closed;

The state may allow exceptions to the requirements that services must be provided in accordance with the approved plan of care and/or supporting documentation;

The state may allow exceptions to prior authorization requirements;

Participants may receive more than two home delivered meals per day;

The state may allow monitored in-home caregiving (MIHC) providers to monitor participants via frequent telephone contacts and/or telehealth;

The state may modify the minimum age requirement for direct care workers; and

The state may increase and/or modify reimbursement rates for CCW providers.

Behavioral Health Services—Home and Community-Based Services Waiver (LAC 50:XXXIII.Subpart 9)

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Coordinated System of Care (CSoC) Waiver are relaxed during the presidential COVID-19 declaration:

Coordinated System of Care (CSoC) Waiver participants are allowed to receive CSoC waiver services in another state;

The current level of care evaluation/re-evaluation remains in effect beyond the semi-annual requirement;

CSoC participants are not discharged for failing to receive a face-to-face visit from the wraparound facilitator for 60 consecutive calendar days or more;

Services may be provided telephonically or through videoconferencing means in accordance with LDH-issued guidance;

Providers and wraparound facilitators are required to document all service activities in accordance with guidance issued by LDH and the CSoC contractor; and

Plan of care reviews and timelines may be extended.

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Erin Campbell, Bureau of Health Services Financing, P.O. Box

91030, Baton Rouge, LA 70821-9030. Ms. Campbell is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Stephen R. Russo, JD
Interim Secretary

2004#021

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing and Office of Aging and Adult Services and Office for Citizens with Developmental Disabilities

Programs and Services Amendments
due to the Coronavirus Disease 2019 (COVID-19)
Statewide Public Health Emergency

On January 30, 2020, the World Health Organization declared a public health emergency of international concern and on January 31, 2020, U.S. Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the United States in response to the recent coronavirus disease 2019 (hereafter referred to as COVID-19) outbreak. On March 11, 2020, Governor John Bel Edwards declared a statewide public health emergency to exist in the State of Louisiana as a result of the imminent threat posed to Louisiana citizens by COVID-19. Likewise, the presidential declaration of the public health emergency related to COVID-19 has an effective date of March 1, 2020.

In response to these public health emergency declarations and the rapid advancement of COVID-19 throughout Louisiana, the Department of Health, Bureau of Health Services Financing, the Office of Aging and Adult Services (OAAS), and the Office of Behavioral Health (OBH) amended the provisions of Title 50 of the Louisiana Administrative Code in order to adopt temporary measures to provide for the continuation of essential programs and services to ensure the health and welfare of the citizens of Louisiana in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. (*Louisiana Register*, Volume 46, Number 4). This Emergency Rule also amended the provisions governing the reimbursement methodology for nursing facilities to include an add-on rate to the per diem. The department has now determined that it is necessary to further amend Title 50 to temporarily adopt additional provisions to ensure the continuation of essential programs and services, and to rescind and replace the nursing facility add-on provisions of the previous Emergency Rule in order to clarify the eligible nursing facility providers. This Emergency Rule shall be in effect for the maximum period allowed under the Act or the duration of the COVID-19 statewide public health emergency declaration, whichever comes first.

The Department of Health, Bureau of Health Services Financing, the Office of Aging and Adult Services, and the Office for Citizens with Developmental Disabilities hereby amend Title 50 of the Louisiana Administrative Code to

enact the following provisions throughout the duration of the COVID-19 presidential public health emergency declaration:

Nursing Facilities—Reimbursement Methodology—Reimbursement Adjustment (LAC 50:II.20006)

The per diem rate paid to privately owned or operated nursing facilities shall include an add-on of \$12 for the duration of the COVID-19 presidential public health emergency declaration or to end at the discretion of the state.

Nursing Facilities—Reimbursement Methodology—Non-State, Government Owned or Operated Facilities and State-Owned or Operated Facilities (LAC 50:II.20009)

Non-state, government-owned or operated nursing facilities will be paid a case-mix reimbursement rate in accordance with §20005 with the following exception.

State-owned or operated and non-state, government-owned or operated nursing facilities are not eligible for, and will not receive, the State and/or Federal declared emergency add-on rate.

Nursing Facilities—Reimbursement Methodology—Leave of Absence Days (LAC 50:II.20021)

State-owned or operated, and non-state government-owned or operated, facilities are not eligible for, and will not receive, the State and/or Federal declared emergency modification to leave of absence day payments.

Medicaid Eligibility (LAC 50:III)

Throughout the duration of the COVID-19 presidential public health emergency declaration, eligibility application and renewal time periods will be relaxed and self-attestation will be accepted for all eligibility criteria, excluding verification of citizenship and immigration status, and post-enrollment verification will be conducted for coverage under the Medical Assistance Program (Medicaid).

Home Health Program—Home Health Services (LAC 50:XIII.Subpart 1)

For the duration of the COVID-19 presidential public health emergency declaration, non-physician practitioners (nurse practitioners and physician assistants) will be able to order and review home health services, including the completion of associated documentation, in order to meet the demand for services due to access issues and a shortfall in physician availability.

Services for Special Populations—Applied Behavior Analysis-Based Therapy Services—Covered Services and Limitations (LAC 50:XV.301.D)

Prior authorizations for persons currently approved to receive applied behavior analysis-based (ABA) therapy services will be extended for the duration of the COVID-19 presidential public health emergency declaration.

Services for Special Populations—Early and Periodic Screening, Diagnosis and Treatment Personal Care Services—Provider Qualifications (LAC 50:XV.Subpart 5)

For the duration of the COVID-19 presidential public health emergency declaration, the qualifications for providers of personal care services (PCS) to recipients receiving early and periodic screening, diagnostic and treatment (EPSDT) services will be relaxed to allow:

Recipients and workers to live in the same setting so that the recipients may receive EPSDT PCS.

Legally responsible relatives/caregivers to be a temporary direct service worker (DSW) in the absence of DSW care.

The following individuals may provide services to the recipient of EPSDT PCS: the recipient's spouse; the recipient's curator; the recipient's tutor; the recipient's legal guardian; the recipient's responsible representative; or the person to whom the recipient has given representative and mandate authority (also known as power of attorney).

Payment to the legally responsible relatives/caregivers designated as the temporary DSW for EPSDT PCS, if necessary, during the absence of availability of agency DSW care.

LDH approval for these services will be required. Requests will be reviewed on a case-by-case basis. If approval is granted:

Providers will pay the temporary DSW directly for services rendered; and

Providers will follow hiring procedures that include background checks and training.

At a minimum, training must include abuse and neglect reporting and infection control prior to the temporary DSW providing services.

Family members, who live with the recipient and are being temporarily approved to provide services, are exempted from background check requirements.

Services for Special Populations—Targeted Case Management (LAC 50:XV.Subpart 7)

For the duration of the COVID-19 presidential public health emergency declaration, the state makes the following allowances for early and periodic screening, diagnostic and treatment targeted case management services:

case managers may utilize telephone contacts (i.e., video or voice calls) in place of any required face-to-face contacts; and

case managers may complete initial assessments, quarterly reassessments, and annual reassessments without signatures from recipients.

Services for Special Populations—Pediatric Day Health Care Program—Pediatric Day Health Care Services (LAC 50:XV.27501.B)

For the duration of the COVID-19 presidential public health emergency declaration, Pediatric Day Health Care (PDHC) program requirements will be temporarily changed as follows to permit skilled staff of PDHC centers that are not exhibiting any signs or symptoms of the COVID-19 infection to render PDHC services to those children who require skilled nursing, when families are not able to provide such care.

The PDHC program will allow for services to be provided in the recipient's home;

The PDHC program will allow for billing and payment of procedure code T1026 (hourly PDHC services – six hours or less per day) when billed at place of service 12 (home); and

Providers must obtain LDH approval to implement the temporary PDHC provisions. Requests for approval will be reviewed on a case-by-case basis.

Home and Community-Based Services Waivers—Adult Day Health Care Waiver (LAC 50:XXI.Subpart 3)

Due to the Department of Health (LDH) directed closures during the state of emergency, the state may make retainer payments to adult day health care (ADHC) providers. The purpose of such payments is to allow ADHC providers to retain staff and cover fixed expenses so that ADHC centers may reopen when allowed to by LDH.

LDH retains the right to recoup all or a portion of retainer payments from ADHC providers who furlough or lay off staff or fail to reopen.

LDH may review cost reports and other documentation of expenses in making this determination.

**Home and Community-Based Services Waivers—
Supports Waiver (LAC 50:XXI.Subpart 5)**

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Supports Waiver are relaxed for the duration of the COVID-19 presidential public health emergency declaration to:

Allow up to a total of 20 hours a week of respite services and or habilitation services in lieu of day habilitation or vocational services for these programs that have been closed;

Allow participants and direct support workers (DSWs) to live in the same setting so that the recipient may receive necessary respite and habilitation services;

Allow legally responsible relatives to be temporary respite or habilitation direct support, if necessary, in the absence of DSW care;

Background checks for legally responsible relatives who live in the same home with the participant prior to the declared emergency will be waived;

Documentation of services rendered is required and will be verified by the support coordination agency;

For initial waiver participants, allow the current statement of approval (SOA) of intellectual disabilities/developmental disabilities (ID/DD) services to suffice for the level of care (LOC) until the declared emergency is resolved so as not to delay waiver services for those who are waiting for services;

Re-evaluation requires a visit to a doctor's office (well visit) to obtain medical eligibility determination (Form 90-L) for waiver services initially and annually. To reduce potential exposure to participants, allow the current evaluation to remain in effect until resolution of emergency if needed;

Add hazard premium increase for service of respite or habilitation for direct support workers who go into the homes of persons who are either positive, presumptive positive, or quarantined for the coronavirus;

Extend the 10-day requirement for the initial in-home visit for initial plans;

Extend the 30-day time frame for the assessment;

Allow plans of care to be extended beyond the one year (annual) requirement;

Allow quarterly visits to be conducted via phone contact, FaceTime, or skype;

Monthly phone contacts will still occur;

Allow support coordinators to substitute phone contact, FaceTime on computers, or Skype, in lieu of home visits for individuals at risk of exposure who are medically fragile, elderly, both or who have medically fragile caregivers;

Allow assessments to be conducted via FaceTime, Skype, or phone call to avoid delay in services;

Allow the comprehensive plan of care by the support coordinator to be conducted via FaceTime, Skype, or by phone to avoid a delay in services;

Allow the home certification visit by the Office for Citizens with Developmental Disabilities (OCDD) or its designee to be conducted via FaceTime, Skype, or phone call to avoid a delay in services; and

Allow the state to make retainer payments to adult day habilitation centers when these providers are ordered to close by local, state, or federal officials. The purpose of such payments is to allow adult day center providers to retain staff and cover fixed expenses so they may reopen.

Retainer payments will be a paid at 75 percent of the normal rate paid for the service provided.

LDH retains the right to recoup all or a portion of retainer payments from providers who furlough or lay off staff or fail to reopen.

LDH may review cost reports and other documentation of expenses in making this determination.

**Home and Community-Based Services Waivers—
Children's Choice Waiver (LAC 50:XXI.Subpart 9)**

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Children's Choice Waiver are relaxed for the duration of the COVID-19 presidential public health emergency declaration to:

Allow expansion of the current Children's Choice Waiver cap to allow for an additional 20 hours per week of family support services as needed for health and safety due to school closures;

Allow participants and family support (FS) direct support workers (DSWs) to live in the same setting so that the participant may continue to receive services;

Allow legally responsible relatives to be temporary FS DSWs during the declared emergency, if necessary, in the absence of DSW care;

Documentation of services rendered is required and will be verified by the support coordination agency;

Reduce the minimum age of DSWs to 16 years of age, if necessary, in an emergency. Emergency being defined as no other staff or supports available;

Remove the requirement for DSWs to have a high school diploma or equivalent;

Temporarily suspend background checks for immediate family hired as DSWs who live in the same home as the recipient;

Re-evaluation requires a visit to a doctor's office (well visit) to obtain medical eligibility determination (Form 90-L) for waiver services initially and annually. To reduce potential exposure to participants, allow the current evaluation to remain in effect until resolution of emergency, if needed;

For initial waiver participants, allow the current statement of approval of intellectual disabilities/developmental disabilities (ID/DD) services to suffice for the level of care requirement to avoid a delay in services;

Add hazard premium increase for family support services for DSWs who go into the homes of persons who are either positive, presumptive positive, or quarantined for the coronavirus;

Extend the 10-day requirement for the initial in-home visit for initial plans;

Extend the 30-day time frame for the assessment;
Allow plans of care to be extended beyond the one year (annual) requirement;
Allow quarterly visits to be conducted via phone contact versus face-to-face contact;
Monthly phone contacts will still occur;
Allow support coordinators to substitute phone contact, FaceTime on computers, or Skype in lieu of home visits for individuals at risk of exposure who are medically fragile, elderly, both, or who have medically fragile caregivers;
Allow assessments to be conducted via FaceTime, Skype, or phone call to avoid delay in services;
Allow the comprehensive plan of care by the support coordinator to be conducted via FaceTime, Skype, or phone to avoid a delay in services; and
Allow the home certification visit by the Office for Citizens with Developmental Disabilities (OCDD) or its designee to be conducted via FaceTime, Skype, or phone to avoid a delay in services.

Home and Community-Based Services Waivers—New Opportunities Waiver (LAC 50:XXI.Subpart 11)

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the New Opportunities Waiver are relaxed for the duration of the presidential public health emergency declaration to:

Allow conversion of day habilitation and vocational service program hours to individual and family support (IFS) for participants whose day habilitation and/or vocational programs have closed;
Allow sharing of direct support staff when necessary;
Add monitored in-home caregiving (MIHC) as a service;
Allow participants and individual and family support (IFS) direct support workers (DSWs) to live in the same setting so that the participant may continue to receive services;
Allow legally responsible relatives to be temporary IFS DSWs during the declared emergency, if necessary, in the absence of DSW care;
Documentation of services rendered is required and will be verified by the support coordination agency;
Temporarily suspend background checks for immediate family hired as DSWs who live in the same home as the recipient;
Reduce the minimum age of DSWs to 16 years of age, if necessary, in an emergency. Emergency being defined as no other staff or supports available;
Remove the requirement for DSWs to have a high school diploma or equivalent;
For initial waiver participants, allow the current statement of approval (SOA) of intellectual disability/developmental disability (ID/DD) services to suffice for the level of care (LOC) until the declared emergency is resolved so as not to delay waiver services for those who are waiting for services;
Re-evaluation requires a visit to a doctor's office (well visit) to obtain medical eligibility determination (Form 90-L) for annual waiver services. To reduce potential exposure to participants, allow the current evaluation to remain in effect until resolution of emergency if needed;

Add hazard premium increase for service of individual and family supports, community living supports, family support, respite, and habilitation for DSWs who go into the homes of persons who are either positive, presumptive positive, or quarantined for the coronavirus;
Extend the 10-day requirement for the initial in-home visit for initial plans;
Extend the 30-day time frame for the assessment;
Allow plans of care to be extended beyond the one year (annual) requirement;
Allow quarterly visits to be conducted via phone contact versus face-to-face contact;
Monthly phone contacts will still occur;
Allow support coordinators and supported living coordinators to substitute phone contact, FaceTime, or Skype in lieu of home visits for individuals at risk of exposure who are medically fragile, elderly, both or who have medically fragile caregivers;
Allow assessments to be conducted via FaceTime, Skype, or phone call to avoid a delay in services;
Allow the comprehensive plan of care by the support coordinator to be conducted via FaceTime, Skype or phone to avoid a delay in services;
Allow the home certification visit by the Office for Citizens with Developmental Disabilities (OCDD) or its designee to be conducted via FaceTime, Skype, or phone to avoid a delay in services; and
Allow the state to make retainer payments to adult day centers when these providers are ordered to close by local, state, or federal officials. The purpose of such payments is to allow adult day center providers to retain staff and cover fixed expenses so they may reopen.
Retainer payments will be a paid at 75 percent of the normal rate paid for the service provided.
LDH retains the right to recoup all or a portion of retainer payments from providers who furlough or lay off staff or fail to reopen.
LDH may review cost reports and other documentation of expenses in making this determination.

Home and Community-Based Services Waivers—Residential Options Waiver (LAC 50:XXI.Subpart 13)

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Residential Options Waiver are relaxed for the duration of the presidential public health emergency declaration to:

Allow sharing of direct support staff when necessary;
Allow conversion of day habilitation and vocational services to community living supports (CLS) for participants whose day habilitation and or vocational program have been closed;
Add monitored in-home caregiving (MIHC) as a service;
Allow participants and community living support (CLS) direct support workers (DSWs) to live in the same setting so that the participant may continue to receive services;
Documentation of services rendered is required and will be verified by the support coordination agency;
Allow legally responsible relatives to be temporary community living support (CLS) DSWs during the declared emergency if necessary in the absence of DSW care;

Temporarily suspend background checks for immediate family hired as DSWs who live in the same home as the recipient;

Reduce the minimum age of DSWs to 16 years of age, if necessary, in an emergency. Emergency being defined as no other staff or supports available;

Remove the requirement for DSWs to have a high school diploma or equivalent;

For initial waiver participants, allow the current statement of approval (SOA) of intellectual disabilities/developmental disabilities (ID/DD) services to suffice for the level of care (LOC) until the declared emergency is resolved so as not to delay waiver services for those who are waiting for services;

Re-evaluation requires a visit to a doctor's office (well visit) to obtain medical eligibility determination (Form 90-L) for annual waiver services. To reduce potential exposure to participants, allow the current evaluation to remain in effect until resolution of emergency if needed;

Add hazard premium increase for service of individual and family supports, community living supports, family support, respite, and habilitation for DSWs who go into the homes of persons who are either positive, presumptive positive, or quarantined for the coronavirus;

Extend the 10-day requirement for the initial in-home visit for initial plans;

Extend the 30-day time frame for the assessment;

Allow plans of care to be extended beyond the one year (annual) requirement;

Allow quarterly visits to be conducted via phone contact versus face-to-face contact;

Monthly phone contacts will still occur;

Allow support coordinators to substitute phone contact, FaceTime on computers, or Skype in lieu of home visits for individuals at risk of exposure who are medically fragile, elderly, or both or who have medically fragile caregivers;

Allow assessments to be conducted via FaceTime, Skype, or phone call to avoid a delay in services;

Allow the comprehensive plan of care by the support coordinator to be conducted via FaceTime, Skype, or by phone to avoid a delay in services;

Allow the home certification visit by the Office for Citizens with Developmental Disabilities (OCDD) or its designee to be conducted via FaceTime, Skype, or phone to avoid delay in services; and

Allow the state to make retainer payments to adult day centers and adult day health care centers when these providers are ordered to close by local, state, or federal officials. The purpose of such payments is to allow adult day center providers to retain staff and cover fixed expenses so they may reopen.

Retainer payments will be a paid at 75 percent of the normal rate paid for the service provided.

LDH retains the right to recoup all or a portion of retainer payments from providers who furlough or lay off staff or fail to reopen.

LDH may review cost reports and other documentation of expenses in making this determination.

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Interested persons may submit written comments to Erin Campbell, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Campbell is responsible for responding to inquiries regarding this Emergency Rule. A copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Stephen R. Russo, JD
Interim Secretary

2004#053

DECLARATION OF EMERGENCY

Department of Insurance Office of the Commissioner

Emergency Rule 35—Healthcare Coverage for Louisiana Families Protection Act (LAC 37:XI.Chapter 35)

The Department of Insurance hereby exercises the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), as further specified by R.S. 22:11.1, and pursuant to the authority granted by R.S. 22:1 et seq., adopts, maintains, and continues in effect Emergency Rule 35, which adopts initial administrative rules pursuant to the Healthcare Coverage for Louisiana Families Protection Act. Emergency Rule 35 became effective December 19, 2019 for a maximum period of 120 days and shall continue in effect for an additional 120 days, unless terminated sooner, as allowed under the Administrative Procedure Act.

Emergency Rule 35 is issued pursuant to the authority specified in Act 412 of the 2019 Regular Legislative Session permitting adoption of initial administrative rules without a finding that an imminent peril to the public health, safety, or welfare exists. Emergency Rule 35 will provide predictability and stability for participants in the non-grandfathered individual and small group insurance market in the event the provisions of the Healthcare Coverage for Louisiana Families Protection Act, R.S. 22:1121 et seq., become effective. The adoption of this Emergency Rule which maintains and continues in effect its provisions is necessary to permit issuers to prepare for future requirements while also maximizing the time permitted for relevant legal developments under the framework provided by R.S. 22:1121 et seq.

Therefore, Emergency Rule 35 is reissued and shall apply to all health insurance issuers and health maintenance organizations doing business in Louisiana and/or regulated by the Commissioner of Insurance.

Emergency Rule 35 is available on the Internet at www.ldi.state.la.us and is available for inspection between the hours of 8 a.m. and 4:30 p.m. at the Louisiana Department of Insurance, 1702 N. Third Street, Baton Rouge, LA 70802.

Title 37
INSURANCE
Part XI. Rules

Chapter 35. Healthcare Coverage for Louisiana Families Protection Act

§3501. Purpose and Applicability

A. The purpose of Emergency Rule 35 is:

1. To define essential health benefits and required levels of coverage and to establish annual limitations on cost sharing pursuant to R.S. 22:11.1 and 22:1128.

2. To provide for compliance with the remaining provisions of Act 412 of the 2019 Regular Legislative Session.

B. This Emergency Rule applies to all health insurance policies, contracts or certificates and includes all accident and health products and health maintenance organization products that are issued on or after the effective date of this Emergency Rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.1, and the Administrative Procedure Act, R.S. 49:953(B).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3503. Definitions

A. As used in this Emergency Rule, these words and terms have the following meanings, unless the context clearly indicates otherwise.

AV—the actuarial value of the plan as established by the U.S. Department of Health and Human Services (HHS) for benefit year 2019 and calculable from the AV Calculator developed and made available by HHS for benefit year 2019.

Issuer—health insurance issuer or health maintenance organization.

Health Plan—health insurance policies, contracts or certificates issued by an issuer.

Healthcare Service—services, items, supplies, or drugs for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.1, and the Administrative Procedure Act, R.S. 49:953(B).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3505. Essential Health Benefits Package

A. The essential health benefits package required under R.S. 22:1128 means the scope of covered benefits and associated limits of a health plan offered by an issuer that provides at least the 10 statutory categories of benefits, as described in paragraph B of this section, and that provides coverage sufficient to meet the benchmark established through the Essential Health Benefits benchmark plan provided by 45 CFR 156.20 et. seq. for health plans offered in the State of Louisiana for the calendar year 2019.

B. As required under R.S. 22:1128, coverage shall include at least the following categories of benefits:

1. ambulatory patient services;
2. emergency services;
3. hospitalization;
4. maternity and newborn care;
5. mental health and substance use disorder services, including behavioral health treatment;
6. prescription drugs;
7. rehabilitative and habilitative services and devices;
8. laboratory services;

9. preventive and wellness services and chronic disease management;

10. pediatric services, including oral and vision care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.1, and the Administrative Procedure Act, R.S. 49:953(B).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3507. Levels of Coverage

A. General requirements for levels of coverage. Levels of coverage are determined by the AV of a health plan, with an allowance for a *de minimis* variation as specified in §16407.C.

B. The levels of coverage are:

1. a bronze health plan is a health plan that has an AV of 60 percent;

2. a silver health plan is a health plan that has an AV of 70 percent;

3. a gold health plan is a health plan that has an AV of 80 percent;

4. a platinum health plan is a health plan that has an AV of 90 percent.

C. *De Minimis* Variation. The allowable variation in the AV of a health plan that does not result in a material difference in the true dollar value of the health plan is -4 percentage points and +2 percentage points, except if a bronze health plan either covers and pays for at least one major healthcare service, other than preventive healthcare services, before the deductible or meets the requirements to be a high deductible health plan within the meaning of 26 U.S.C. 223(C)(2), in which case the allowable variation in AV for such plan is -4 percentage points and +5 percentage points.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.1, and the Administrative Procedure Act, R.S. 49:953(B).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3509. Limits on Cost Sharing

A. The annual limitation on cost sharing shall be that established in the most current published HHS Notice of Benefit and Payment Parameters pursuant to 84 FR 17454 (April 25, 2019) and any successor HHS Notice of Benefit and Payment Parameters

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.1, and the Administrative Procedure Act, R.S. 49:953(B).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3511. Issuers' Compliance with Act 412 of the 2019 Regular Legislative Session

A. All health insurance issuers and health maintenance organizations are required to comply with Act 412 of the 2019 Regular Legislative Session.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.1, and the Administrative Procedure Act, R.S. 49:953(B).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3513. Severability

A. If any section or provision of Emergency Rule 35 or the application to any person or circumstance is held to be invalid, such invalidity or determination shall not affect other Sections or provisions or the application of Emergency Rule 35 to any persons or circumstances that can be given effect without the invalid Section or provision or application, and for these purposes the Sections and provisions of

Emergency Rule 35 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.1, and the Administrative Procedure Act, R.S. 49:953(B).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3515. Effective Date

A. Emergency Rule 35 shall become effective immediately upon signature of the Commissioner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11.1, and the Administrative Procedure Act, R.S. 49:953(B).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

James J. Donelon
Commissioner

2004#014

DECLARATION OF EMERGENCY

Department of Insurance Office of the Commissioner

Emergency Rule 36—Patient Protections and Related Health Care Services Regarding Health Insurance Matters Affecting Insureds in Louisiana Caused by the Outbreak of Coronavirus Disease (COVID-19)
(LAC 37:XI.Chapter 31)

On January 31, 2020, the United States Department of Health and Human Services Secretary Alex A. Azar declared a public health emergency (PHE) for the United States to aid the nation's healthcare community in responding to the coronavirus disease (COVID-19). The United States Centers for Disease Control and Prevention (CDC) has declared COVID-19 a worldwide pandemic due to its global effect. Furthermore, on March 13, 2020, President Donald Trump invoked the Stafford Act and declared a national emergency regarding the COVID-19 outbreak. COVID-19 has been detected in the state of Louisiana with a growing number of residents testing positive for the disease. There is reason to believe that COVID-19 may spread among the population by various means of exposure, therefore posing a significant risk of substantial harm to a large number of citizens.

Emergency Rule 36 is issued to address the statewide public health emergency declared to exist in the state of Louisiana as the result of the imminent threat posed to Louisiana citizens by COVID-19, creating emergency conditions threatening the lives and health of the citizens of this state. Emergency Rule 36 is issued under the authority of the Commissioner of Insurance for the State of Louisiana, pursuant to the following: Proclamation No. JBE 2020-25 issued on March 11, 2020, by Governor John Bel Edwards declaring a State of Emergency extending from March 11, 2020, through April 9, 2020, unless terminated sooner and Proclamation No. JBE 2020-29 issued on March 14, 2020, transferring authority over certain insurance matters to Commissioner of Insurance James J. Donelon (commissioner).

Accordingly, Emergency Rule 36 shall apply to all health maintenance organizations (HMOs), managed care organizations (MCOs), preferred provider organizations

(PPOs), pharmacy benefit managers (PBMs), and third party administrators (TPAs) acting on behalf of an HMO, MCO, PPO, and any and all other insurance related entities licensed by the commissioner or doing business in Louisiana (collectively known as "health insurance issuers") and their insureds, policyholders, members, subscribers, enrollees and certificate holders.

COVID-19 has created a mass disruption to the normalcy previously enjoyed by Louisianans and is an immediate threat to the public health, safety, and welfare of Louisiana citizens. In order to respond to the emergency and to protect and safeguard the public, health, safety and welfare of the citizens of this state, it is necessary to issue Emergency Rule 36.

Title 37 INSURANCE

Part XI. Rules

Chapter 31. Emergency Rule 36—Patient Protections and Related Health Care Services Regarding Health Insurance Matters Affecting Insureds in Louisiana Caused by the Outbreak of Coronavirus Disease (COVID-19)

§3101. Benefits, Entitlements, and Protections

A. The benefits, entitlements and protections of Emergency Rule 36 shall be applicable to insureds, policyholders, members, subscribers, enrollees and certificate holders who, as of 12:01 a.m. on March 17, 2020 have a policy, insurance contract or certificate of coverage issued by a health maintenance organization or for any of the types of insurance enumerated in R.S. 22:47(2)(a) and reside in the state of Louisiana. Insureds shall include, but not be limited to, any and all policyholders, members, subscribers, enrollees and certificate holders.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3103. Applicability

A. Emergency Rule 36 shall apply to every health maintenance organization (HMO), managed care organization (MCO), preferred provider organization (PPO), pharmacy benefit manager (PBM), and third party administrator (TPA) acting on behalf of a health insurance issuer, HMO, MCO, PPO, and any and all other insurance related entities licensed by the commissioner or doing business in Louisiana (collectively known as "health insurance issuers").

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3105. Waiver

A. All health insurance issuers shall waive all cost-sharing including copayments, coinsurance, and deductibles for screening and testing for COVID-19 as specified by the CDC, including hospital, emergency department, urgent care, provider office visits, lab testing, telehealth, telemedicine, and any immunizations that are made available.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3107. Prior Authorizations or Restrictions

A. All health insurance issuers shall waive any prior authorization requirements or restrictions for screening and diagnostic testing for COVID-19 and respond to any requests for treatment of COVID-19 on a timely basis.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3109. Network Adequacy

A. All health insurance issuers are directed to verify that their provider networks are adequate to handle a potential increase and the need for healthcare services for COVID-19 cases diagnosed in Louisiana, including by offering access to out-of-network services where appropriate.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3111. Notice to Contracted Providers of Waiver

A. All health insurance issuers shall provide notice to contracted providers that they are waiving the cost-sharing and prior authorization requirements, or any restrictions, and ensure that information regarding the waivers is provided to customer service centers, nurse advice lines, and others so that proper information is provided to insured citizens.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3113. Prescription Drug Coverage

A. Health insurance issuers shall allow insured individuals to obtain refills of their prescriptions even if the prescription was recently filled, consistent with approval from patients' health care providers and/or pharmacists. This provision does not apply to prescription drugs with a high likelihood of abuse, such as opioids that are restricted to 7-day prescriptions.

B. The commissioner hereby suspends any and all precertification or step-therapy procedures in order to fill a prescription. This authorization shall be for a 30-day supply.

C. The commissioner hereby suspends any provisions in the Louisiana Insurance Code which place restrictions on replacement prescriptions pertaining to mail order prescriptions. Mail order prescriptions should be mailed to an alternate address if requested by the insured.

D. All health insurance issuers shall waive any and all restrictions relative to out-of-network access to pharmacy services or prescriptions.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3115. Timely Utilization Review

A. Timely decision making is essential to responding appropriately to COVID-19, and is particularly important to utilization review. Health insurance issuers are reminded to comply with the utilization review decision timelines set forth in R.S. 22:2401 et seq. and 22:2411 et seq.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3117. Intent and Purpose

A. The provisions of Emergency Rule 36 shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum consumer protection for the insureds of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3121. Sanctions for Violations

A. The commissioner retains the authority to enforce violations of Emergency Rule 36. Accordingly, any health insurance issuers enumerated in Emergency Rule 36 or other entity doing business in Louisiana and/or regulated by the commissioner who violates any provision of Emergency Rule 36 shall be subject to regulatory action by the commissioner under any applicable provisions of the Louisiana Insurance Code

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3123. Authority

A. The commissioner reserves the right to amend, modify, alter or rescind all or any portions of Emergency Rule 36. Additionally, the commissioner reserves the right to extend Emergency Rule 36.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3125. Severability Clause

A. If any section or provision of Emergency Rule 36 is held invalid, such invalidity or determination shall not affect other sections or provisions, or the application of Emergency Rule 36, to any persons or circumstances that can be given effect without the invalid sections or provisions and the application to any person or circumstance shall be severable.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the commissioner, LR 46:

§3127. Effective Date

A. Emergency Rule 36 shall become effective at 12:01 a.m. on March 17, 2020 and shall continue in full force and effect until 12:01 a.m. on April 9, 2020, unless terminated sooner.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

James J. Donelon
Commissioner

2004#008

DECLARATION OF EMERGENCY

Department of Insurance Office of the Commissioner

Emergency Rule 36—Patient Protections and Related Health Care Services Regarding Health Insurance Matters Affecting Insureds in Louisiana Caused by the Outbreak of Coronavirus Disease (COVID-19) (LAC 37:XI.Chapter 31)

On January 31, 2020, the United States Department of Health and Human Services Secretary Alex A. Azar declared a public health emergency (PHE) for the United States to aid the nation's healthcare community in responding to the coronavirus disease (COVID-19). The United States Centers for Disease Control and Prevention (CDC) has declared COVID-19 a worldwide pandemic due to its global effect. Furthermore, on March 13, 2020, President Donald Trump invoked the Stafford Act and declared a national emergency regarding the COVID-19 outbreak. COVID-19 has been detected in the state of Louisiana with a growing number of residents testing positive for the disease. There is reason to believe that COVID-19 may spread among the population by various means of exposure, therefore posing a significant risk of substantial harm to a large number of citizens.

The Department of Insurance hereby exercises the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), as further specified by R.S. 22:11.1, and pursuant to the authority granted by R.S. 22:1 et seq., adopts, maintains, and continues in effect Emergency Rule 36 until May 12, 2020, unless terminated sooner, which is issued to address the statewide public health emergency declared to exist in the state of Louisiana as the result of the imminent threat posed to Louisiana citizens by COVID-19, creating emergency conditions threatening the lives and health of the citizens of this state. Emergency Rule 36 became effective March 17, 2020 and shall continue in effect until May 12, 2020, unless terminated sooner, as allowed under the Administrative Procedure Act.

Emergency Rule 36 is issued under the authority of the Commissioner of Insurance for the State of Louisiana, pursuant to the following: Proclamation No. JBE 2020-25 issued on March 11, 2020, by Governor John Bel Edwards declaring a State of Emergency extending from March 11, 2020, through April 9, 2020, unless terminated sooner, Proclamation No. JBE 2020-29 issued on March 14, 2020, transferring authority over certain insurance matters to Commissioner of Insurance James J. Donelon, and Proclamation No. JBE 2020-37 issued on March 26, 2020 transferring authority over certain insurance matters to Commissioner of Insurance James J. Donelon. Additionally, Emergency Rule 36 is being issued following the issuance of Proclamation No. JBE 2020-33 issued on March 22, 2020 by Governor John Bel Edwards declaring a stay at home order and closure of nonessential businesses until April 13, 2020 unless terminated sooner, and Proclamation No. JBE 2020-41 issued on April 2, 2020, extending the stay at home order and closure of nonessential businesses until April 30, 2020 unless terminated sooner.

COVID-19 has created a mass disruption to the normalcy previously enjoyed by Louisianans and is an immediate threat to the public health, safety, and welfare of Louisiana citizens. In order to respond to the emergency and to protect and safeguard the public, health, safety and welfare of the citizens of this state, it is necessary to reissue Emergency Rule 36.

Therefore, Emergency Rule 36 is adopted, maintained, and continued, and shall apply to all health maintenance organizations (HMOs), managed care organizations (MCOs), preferred provider organizations (PPOs), pharmacy benefit managers (PBMs), and third party administrators (TPAs) acting on behalf of an HMO, MCO, PPO, and any and all other insurance related entities licensed by the commissioner or doing business in Louisiana (collectively known as "health insurance issuers") and their insureds, policyholders, members, subscribers, enrollees and certificate holders.

Emergency Rule 36 is available on the Internet at www.lidi.state.la.us and is available for inspection between the hours of 8 a.m. and 4:30 p.m. at the Louisiana Department of Insurance, 1702 N. Third Street, Baton Rouge, LA 70802.

Title 37 INSURANCE Part XI. Rules

Chapter 31. Emergency Rule 36— Patient Protections and Related Health Care Services Regarding Health Insurance Matters Affecting Insureds in Louisiana Caused by the Outbreak of Coronavirus Disease (COVID-19)

§3101. Benefits, Entitlements, and Protections

A. The benefits, entitlements and protections of Emergency Rule 36 shall be applicable to insureds, policyholders, members, subscribers, enrollees and certificate holders who, as of 12:01 a.m. on March 17, 2020 have a policy, insurance contract or certificate of coverage issued by a health maintenance organization or for any of the types of insurance enumerated in La. R. S. 22:47(2)(a) and reside in the state of Louisiana. Insureds shall include, but not be limited to, any and all policyholders, members, subscribers, enrollees and certificate holders.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, and Proclamation No. JBE 2020-41.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3103. Applicability

A. Emergency Rule 36 shall apply to every health maintenance organization (HMO), managed care organization (MCO), preferred provider organization (PPO), pharmacy benefit manager (PBM), and third party administrator (TPA) acting on behalf of a health insurance issuer, HMO, MCO, PPO, and any and all other insurance related entities licensed by the commissioner or doing business in Louisiana (collectively known as "health insurance issuers").

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29,

Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, and Proclamation No. JBE 2020-41.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3105. Waiver

A. All health insurance issuers shall waive all cost-sharing including copayments, coinsurance, and deductibles for screening and testing for COVID-19 as specified by the CDC, including hospital, emergency department, urgent care, provider office visits, lab testing, telehealth, telemedicine, and any immunizations that are made available.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, and Proclamation No. JBE 2020-41.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3107. Prior Authorizations or Restrictions

A. All health insurance issuers shall waive any prior authorization requirements or restrictions for screening and diagnostic testing for COVID-19 and respond to any requests for treatment of COVID-19 on a timely basis.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, and Proclamation No. JBE 2020-41.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3109. Network Adequacy

A. All health insurance issuers are directed to verify that their provider networks are adequate to handle a potential increase and the need for healthcare services for COVID-19 cases diagnosed in Louisiana, including by offering access to out-of-network services where appropriate.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, and Proclamation No. JBE 2020-41.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3111. Notice to Contracted Providers of Waiver

A. All health insurance issuers shall provide notice to contracted providers that they are waiving the cost-sharing and prior authorization requirements, or any restrictions, and ensure that information regarding the waivers is provided to customer service centers, nurse advice lines, and others so that proper information is provided to insured citizens.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, and Proclamation No. JBE 2020-41.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3113. Prescription Drug Coverage

A. Health insurance issuers shall allow insured individuals to obtain refills of their prescriptions even if the prescription was recently filled, consistent with approval from patients' health care providers and/or pharmacists. This provision does not apply to prescription drugs with a high likelihood of abuse, such as opioids that are restricted to 7-day prescriptions.

B. The commissioner hereby suspends any and all precertification or step-therapy procedures in order to fill a

prescription. This authorization shall be for a thirty (30) day supply.

C. The commissioner hereby suspends any provisions in the Louisiana Insurance Code which place restrictions on replacement prescriptions pertaining to mail order prescriptions. Mail order prescriptions should be mailed to an alternate address if requested by the insured.

D. All health insurance issuers shall waive any and all restrictions relative to out-of-network access to pharmacy services or prescriptions.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, and Proclamation No. JBE 2020-41.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3115. Timely Utilization Review

A. Timely decision making is essential to responding appropriately to COVID-19, and is particularly important to utilization review. Health insurance issuers are reminded to comply with the utilization review decision timelines set forth in La. R.S. 22:2401 et seq. and 22:2411 et seq.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, and Proclamation No. JBE 2020-41.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3117. Intent and Purpose

A. The provisions of Emergency Rule 36 shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum consumer protection for the insureds of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, and Proclamation No. JBE 2020-41.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3121. Sanctions for Violations

A. The commissioner retains the authority to enforce violations of Emergency Rule 36. Accordingly, any health insurance issuers enumerated in Emergency Rule 36 or other entity doing business in Louisiana and/or regulated by the commissioner who violates any provision of Emergency Rule 36 shall be subject to regulatory action by the commissioner under any applicable provisions of the Louisiana Insurance Code

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, and Proclamation No. JBE 2020-41.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3123. Authority

A. The commissioner reserves the right to amend, modify, alter or rescind all or any portions of Emergency Rule 36. Additionally, the commissioner reserves the right to extend Emergency Rule 36.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, and Proclamation No. JBE 2020-41.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3125. Severability Clause

A. If any section or provision of Emergency Rule 36 is held invalid, such invalidity or determination shall not affect other sections or provisions, or the application of Emergency Rule 36, to any persons or circumstances that can be given effect without the invalid sections or provisions and the application to any person or circumstance shall be severable.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, and Proclamation No. JBE 2020-41.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3127. Effective Date

A. Emergency Rule 36 became effective at 12:01 a.m. on March 17, 2020 and shall continue in full force and effect until 12:01 a.m. May 12, 2020, unless terminated sooner, as allowed under the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, and Proclamation No. JBE 2020-41.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

James J. Donelon
Commissioner

2004#059

DECLARATION OF EMERGENCY

**Department of Insurance
Office of the Commissioner**

Emergency Rule 37—Telemedicine and Network Adequacy in Health Insurance in Louisiana during the Outbreak of Coronavirus Disease (COVID-19) (LAC 37:XI.Chapter 33)

On January 31, 2020, the United States Department of Health and Human Services Secretary Alex A. Azar declared a public health emergency (PHE) for the United States to aid the nation’s healthcare community in responding to the coronavirus disease (COVID-19). The United States Centers for Disease Control and Prevention (CDC) has declared COVID-19 a worldwide pandemic due to its global effect. Furthermore, on March 13, 2020, President Donald Trump invoked the Stafford Act and declared a national emergency regarding the COVID-19 outbreak. COVID-19 has been detected in the state of Louisiana with a growing number of residents testing positive for the disease. There is reason to believe that COVID-19 may spread among the population by various means of exposure, therefore posing a significant risk of substantial harm to a large number of citizens.

Emergency Rule 37 is issued to address the statewide public health emergency declared to exist in the state of Louisiana as the result of the imminent threat posed to Louisiana citizens by COVID-19, creating emergency conditions threatening the lives and health of the citizens of this state. Emergency Rule 37 is issued under the authority of the Commissioner of Insurance for the State of Louisiana, pursuant to the following: Proclamation No. JBE 2020-25 issued on March 11, 2020 by Governor John Bel Edwards declaring a State of Emergency extending from March 11, 2020, through April 9, 2020, unless terminated sooner and

Proclamation No. JBE 2020-29 issued on March 14, 2020, transferring authority over certain insurance matters to Commissioner of Insurance James J. Donelon (commissioner).

Accordingly, Emergency Rule 37 shall apply to all health maintenance organizations (HMOs), managed care organizations (MCOs), preferred provider organizations (PPOs), pharmacy benefit managers (PBMs), and third party administrators (TPAs) acting on behalf of an HMO, MCO, PPO, and any and all other insurance related entities licensed by the commissioner or doing business in Louisiana (collectively known as “health insurance issuers”) and their insureds, policyholders, members, subscribers, enrollees and certificate holders.

COVID-19 has created a mass disruption to the normalcy previously enjoyed by Louisianans and is an immediate threat to the public health, safety, and welfare of Louisiana citizens. Moreover, the unique nature of the COVID-19 pandemic is such that traditional provider networks organized to deliver care primarily in in-person settings can no longer be reasonably expected to adequately meet the needs of Louisiana’s insured population without substantial augmentation by remote provision of services, including care unrelated to COVID-19. In order to respond to the emergency and to protect and safeguard the public health, safety, and welfare of the citizens of this state, it is necessary to issue Emergency Rule 37.

Title 37

INSURANCE

Part XI. Rules

Chapter 33. Emergency Rule 37—Telemedicine and Network Adequacy in Health Insurance in Louisiana During the Outbreak of Coronavirus Disease (COVID-19)

§3301. Benefits, Entitlements, and Protections

A. The benefits, entitlements and protections of Emergency Rule 37 shall be applicable to insureds, policyholders, members, subscribers, enrollees and certificate holders who, as of 12:01 a.m. on March 23, 2020 have a policy, insurance contract or certificate of coverage issued by a health maintenance organization or for any of the types of insurance enumerated in R.S. 22:47(2)(a) and reside in the state of Louisiana. Insureds shall include, but not be limited to, any and all policyholders, members, subscribers, enrollees and certificate holders.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3303. Applicability

A. Emergency Rule 37 shall apply to every health maintenance organization (HMO), managed care organization (MCO), preferred provider organization (PPO), pharmacy benefit manager (PBM), and third party administrator (TPA) acting on behalf of a health insurance issuer, HMO, MCO, PPO, and any and all other insurance related entities licensed by the Commissioner or doing business in Louisiana (collectively known as “health insurance issuers”).

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3305. Limited Waiver

A. Except as it pertains to emergency services, services not ordered postponed by the State Health Officer in Healthcare Facility Notice #2020-COVID19-ALL-006 on March 18, 2020, services related to the testing or treatment of COVID-19, and services ancillary to any of the above, the geographic accessibility requirements of R.S. 22:1019.2 are hereby waived subject to maintenance of adequate access for those same services in compliance with all provisions of this Rule.

B. Any health insurance issuer not complying with all provisions of this Rule in providing a health benefit plan shall not be subject to this waiver of R.S. 22:1019.2, shall be required to comply with the geographic accessibility requirements of R.S. 22:1019.2, and shall be subject to the Commissioner's reservation of right to invoke any appropriate authority to address any resulting endangerment of Louisiana residents.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3307. Allowed Telemedicine Devices

A. Health insurance issuers shall waive any limitation on the use of audio-only telephonic consultations in the provision of telemedicine services, including the use of personal devices, to the extent permitted under federal guidance issued by the Office for Civil Rights at the Department of Health and Human Services as found here: <https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html>.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3309. Telemedicine Provider Access

A. Health insurance issuers shall waive any coverage limitations restricting telemedicine access to providers included within a plan's telemedicine network.

B. Health insurance issuers shall waive any requirement that the patient and provider have a prior relationship in order to have services delivered through telemedicine.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3311. Telemedicine Services Coverage

A. Health insurance issuers shall cover mental health services provided by telemedicine consultation to the same extent the services would be covered if provided through an in-person consultation. This shall not be interpreted to require coverage of telemedicine services that cannot be appropriately provided remotely.

B. Health insurance issuers shall waive any requirement limiting coverage to provider-to-provider consultations only and shall cover telemedicine consultations between a patient and a provider to the extent the same services would be covered if provided in person.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3313. Cost Sharing Given Network Access

A. All health insurance issuers shall evaluate differences in cost-sharing responsibilities for their insureds seeking in-network and non-network care for the duration of this event and take appropriate steps to ensure that patients in areas in which in-network surge capacity is exceeded are not subject to unreasonable cost sharing requirements due to access limitations.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3315. Intent and Purpose

A. The provisions of Emergency Rule 37 shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum consumer protection for the insureds of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3317. Sanctions for Violations

A. The Commissioner retains the authority to enforce violations of Emergency Rule 37. Accordingly, any health insurance issuers enumerated in Emergency Rule 37 or other entity doing business in Louisiana and/or regulated by the Commissioner who violates any provision of Emergency Rule 37 shall be subject to regulatory action by the Commissioner under any applicable provisions of the Louisiana Insurance Code

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3319. Authority

A. The commissioner reserves the right to amend, modify, alter or rescind all or any portions of Emergency Rule 37. Additionally, the commissioner reserves the right to extend Emergency Rule 37.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3321. Severability Clause

A. If any section or provision of Emergency Rule 37 is held invalid, such invalidity or determination shall not affect other sections or provisions, or the application of Emergency Rule 37, to any persons or circumstances that can be given effect without the invalid sections or provisions and the application to any person or circumstance shall be severable.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3323. Effective Date

A. Emergency Rule 37 shall become effective at 12:01 a.m. on March 23, 2020 and shall continue in full force and effect until 12:01 a.m. April 9, 2020.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

James J. Donelon
Commissioner

2004#015

DECLARATION OF EMERGENCY

Department of Insurance Office of the Commissioner

Emergency Rule 37—Telemedicine and Network Adequacy in Health Insurance in Louisiana during the Outbreak of Coronavirus Disease (COVID-19) (LAC 37:XIII.Chapter 33)

On January 31, 2020, the United States Department of Health and Human Services Secretary Alex A. Azar declared a public health emergency (PHE) for the United States to aid the nation's healthcare community in responding to the coronavirus disease (COVID-19). The United States Centers for Disease Control and Prevention (CDC) has declared COVID-19 a worldwide pandemic due to its global effect. Furthermore, on March 13, 2020, President Donald Trump invoked the Stafford Act and declared a national emergency regarding the COVID-19 outbreak. COVID-19 has been detected in the state of Louisiana with a growing number of residents testing positive for the disease. There is reason to believe that COVID-19 may spread among the population by various means of exposure, therefore posing a significant risk of substantial harm to a large number of citizens.

The Department of Insurance hereby exercises the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), as further specified by R.S. 22:11.1, and pursuant to the authority granted by R.S. 22:1 et seq., adopts, maintains, and continues in effect Emergency Rule 37 until May 12, 2020, unless terminated sooner, which is issued to address the statewide public health emergency declared to exist in the state of Louisiana as the result of the imminent threat posed to Louisiana citizens by COVID-19, creating emergency conditions threatening the lives and health of the citizens of this state. Emergency Rule 37 became effective March 23, 2020 and shall continue in effect until May 12, 2020, unless terminated sooner, as allowed under the Administrative Procedure Act.

Emergency Rule 37 is issued to address the statewide public health emergency declared to exist in the state of Louisiana as the result of the imminent threat posed to Louisiana citizens by COVID-19, creating emergency conditions threatening the lives and health of the citizens of this state. Emergency Rule 37 is issued under the authority of the Commissioner of Insurance for the State of Louisiana, pursuant to the following: Proclamation No. JBE 2020-25 issued on March 11, 2020, by Governor John Bel Edwards declaring a State of Emergency extending from March 11, 2020, through April 9, 2020, unless terminated sooner, Proclamation No. JBE 2020-29 issued on March 14, 2020, transferring authority over certain insurance matters to Commissioner of Insurance James J. Donelon, and Proclamation No. JBE 2020-37 issued on March 26, 2020 transferring authority over certain insurance matters to Commissioner of Insurance James J. Donelon. Additionally,

Emergency Rule 36 is being issued following the issuance of Proclamation No. JBE 2020-33 issued on March 22, 2020 by Governor John Bel Edwards declaring a stay at home order and closure of nonessential businesses until April 13, 2020 unless terminated sooner, and Proclamation No. JBE 2020-41 issued on April 2, 2020, extending the stay at home order and closure of nonessential businesses until April 30, 2020 unless terminated sooner.

Accordingly, Emergency Rule 37 shall apply to all health maintenance organizations (HMOs), managed care organizations (MCOs), preferred provider organizations (PPOs), pharmacy benefit managers (PBMs), and third party administrators (TPAs) acting on behalf of an HMO, MCO, PPO, and any and all other insurance related entities licensed by the commissioner or doing business in Louisiana (collectively known as "health insurance issuers") and their insureds, policyholders, members, subscribers, enrollees and certificate holders.

COVID-19 has created a mass disruption to the normalcy previously enjoyed by Louisianans and is an immediate threat to the public health, safety, and welfare of Louisiana citizens. Moreover, the unique nature of the COVID-19 pandemic is such that traditional provider networks organized to deliver care primarily in in-person settings can no longer be reasonably expected to adequately meet the needs of Louisiana's insured population without substantial augmentation by remote provision of services, including care unrelated to COVID-19. In order to respond to the emergency and to protect and safeguard the public health, safety, and welfare of the citizens of this state, it is necessary to adopt, maintain, and continue Emergency Rule 37.

Title 37

INSURANCE

Part XI. Rules

Chapter 33. Emergency Rule 37—Telemedicine and Network Adequacy in Health Insurance in Louisiana During the Outbreak of Coronavirus Disease (COVID-19)

§3301. Benefits, Entitlements, and Protections

A. The benefits, entitlements and protections of Emergency Rule 37 shall be applicable to insureds, policyholders, members, subscribers, enrollees and certificate holders who, as of 12:01 a.m. on March 23, 2020 have a policy, insurance contract or certificate of coverage issued by a health maintenance organization or for any of the types of insurance enumerated in La. R. S. 22:47(2)(a) and reside in the state of Louisiana. Insureds shall include, but not be limited to, any and all policyholders, members, subscribers, enrollees and certificate holders.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, and Proclamation No. JBE 2020-41.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3303. Applicability

A. Emergency Rule 37 shall apply to every health maintenance organization (HMO), managed care organization (MCO), preferred provider organization (PPO), pharmacy benefit manager (PBM), and third party administrator (TPA) acting on behalf of a health insurance issuer, HMO, MCO, PPO, and any and all other insurance related entities licensed by the commissioner or doing

business in Louisiana (collectively known as “health insurance issuers”).

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, and Proclamation No. JBE 2020-41.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3305. Limited Waiver

A. Except as it pertains to emergency services, services not ordered postponed by the State Health Officer in Healthcare Facility Notice #2020-COVID19-ALL-006 on March 18, 2020, services related to the testing or treatment of COVID-19, and services ancillary to any of the above, the geographic accessibility requirements of La. R.S. 22:1019.2 are hereby waived subject to maintenance of adequate access for those same services in compliance with all provisions of this Rule.

B. Any health insurance issuer not complying with all provisions of this Rule in providing a health benefit plan shall not be subject to this waiver of La. R.S. 22:1019.2, shall be required to comply with the geographic accessibility requirements of La. R.S. 22:1019.2, and shall be subject to the commissioner’s reservation of right to invoke any appropriate authority to address any resulting endangerment of Louisiana residents.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, and Proclamation No. JBE 2020-41.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3307. Allowed Telemedicine Devices

A. Health insurance issuers shall waive any limitation on the use of audio-only telephonic consultations in the provision of telemedicine services, including the use of personal devices, to the extent permitted under federal guidance issued by the Office for Civil Rights at the Department of Health and Human Services as found here: <https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html>.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, and Proclamation No. JBE 2020-41.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3309. Telemedicine Provider Access

A. Health insurance issuers shall waive any coverage limitations restricting telemedicine access to providers included within a plan’s telemedicine network.

B. Health insurance issuers shall waive any requirement that the patient and provider have a prior relationship in order to have services delivered through telemedicine.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, and Proclamation No. JBE 2020-41.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3311. Telemedicine Services Coverage

A. Health insurance issuers shall cover mental health services provided by telemedicine consultation to the same extent the services would be covered if provided through an

in-person consultation. This shall not be interpreted to require coverage of telemedicine services that cannot be appropriately provided remotely.

B. Health insurance issuers shall waive any requirement limiting coverage to provider-to-provider consultations only and shall cover telemedicine consultations between a patient and a provider to the extent the same services would be covered if provided in person.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, and Proclamation No. JBE 2020-41.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3313. Cost Sharing Given Network Access

A. All health insurance issuers shall evaluate differences in cost-sharing responsibilities for their insureds seeking in-network and non-network care for the duration of this event and take appropriate steps to ensure that patients in areas in which in-network surge capacity is exceeded are not subject to unreasonable cost sharing requirements due to access limitations.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, and Proclamation No. JBE 2020-41.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3315. Intent and Purpose

A. The provisions of Emergency Rule 37 shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum consumer protection for the insureds of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, and Proclamation No. JBE 2020-41.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3317. Sanctions for Violations

A. The Commissioner retains the authority to enforce violations of Emergency Rule 37. Accordingly, any health insurance issuers enumerated in Emergency Rule 37 or other entity doing business in Louisiana and/or regulated by the commissioner who violates any provision of Emergency Rule 37 shall be subject to regulatory action by the commissioner under any applicable provisions of the Louisiana Insurance Code

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, and Proclamation No. JBE 2020-41.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3319. Authority

A. The commissioner reserves the right to amend, modify, alter or rescind all or any portions of Emergency Rule 37. Additionally, the commissioner reserves the right to extend Emergency Rule 37.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, and Proclamation No. JBE 2020-41.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3321. Severability Clause

A. If any section or provision of Emergency Rule 37 is held invalid, such invalidity or determination shall not affect other sections or provisions, or the application of Emergency Rule 37, to any persons or circumstances that can be given effect without the invalid sections or provisions and the application to any person or circumstance shall be severable.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, and Proclamation No. JBE 2020-41.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3323. Effective Date

A. Emergency Rule 37 became effective at 12:01 a.m. on March 23, 2020 and shall continue in full force and effect until 12:01 a.m. May 12, 2020.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, and Proclamation No. JBE 2020-41.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

James J. Donelon
Commissioner

2004#060

DECLARATION OF EMERGENCY

**Department of Insurance
Office of the Commissioner**

**Emergency Rule 38—Temporary Licensing of Certain
Insurance Producers (LAC 37:XI.Chapter 37)**

On January 31, 2020, the United States Department of Health and Human Services Secretary Alex A. Azar declared a public health emergency (PHE) for the United States to aid the nation’s healthcare community in responding to the coronavirus disease (COVID-19). The United States Centers for Disease Control and Prevention (CDC) has declared COVID-19 a worldwide pandemic due to its global effect. Furthermore, on March 13, 2020, President Donald Trump invoked the Stafford Act and declared a national emergency regarding the COVID-19 outbreak. COVID-19 has been detected in the state of Louisiana with a growing number of residents testing positive for the disease. There is reason to believe that COVID-19 may spread among the population by various means of exposure, therefore posing a significant risk of substantial harm to a large number of citizens.

Emergency Rule 38 is issued to address the mass disruption to the normalcy previously enjoyed by citizens of Louisiana as a result of the effects of Covid-19. Specifically, the stay at home orders inhibit the ability to sit for an insurance examination and submit fingerprints in association with insurance producer license applications. Emergency Rule 38 is issued under the authority of the Commissioner of Insurance for the State of Louisiana, pursuant to the following: Proclamation No. JBE 2020-25 issued on March 11, 2020, by Governor John Bel Edwards declaring a State of Emergency extending from March 11, 2020, through

April 9, 2020, unless terminated sooner and Proclamation No. JBE 2020-29 issued on March 14, 2020, transferring authority over certain insurance matters to Commissioner of Insurance James J. Donelon (Commissioner).

COVID-19 has created a mass disruption to the normalcy previously enjoyed by Louisianans and is an immediate threat to the public health, safety, and welfare of Louisiana citizens. In order to respond to the emergency and to protect and safeguard the public, health, safety and welfare of the citizens of this state, it is necessary to issue Emergency Rule 38.

**Title 37
INSURANCE
Part XI. Rules**

**Chapter 37. Emergency Rule 38—Temporary
Licensing of Certain Producers**

§3701. Purpose

A. Emergency Rule 38 provides for the procedure to implement the protocol necessitated for the temporary licensing of insurance producer applicants who have been negatively impacted by closure of insurance testing sites following issuance of Proclamation No. 33 JBE 2020, issued on March 22, 2020, by Governor John Bel Edwards declaring a stay at home order and closure of nonessential businesses until April 13, 2020 unless terminated sooner.

B. An additional purpose of this regulation is to set forth the duration of the temporary license issued hereunder, the eligibility for the license and the process of obtaining a permanent replacement producer license.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, R.S. 22:2, R.S. 22:11, and R.S. 22:1553.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3703. Applicability and Scope

A. Emergency Rule 38 shall apply to those individuals making application for an insurance producer license for the line or lines of insurance with a pre-licensing education requirement set forth in R.S. 22:1571(E) or (F). producer applicants.

B. Emergency Rule 38 shall not apply to any license for which there is no pre-licensing education requirement.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, R.S. 22:2, R.S. 22:11, and R.S. 22:1553.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3705. Definitions

A. For the purposes of Emergency Rule 38 the following terms are defined as follows:

Applicant—a natural person who is seeking a license as an insurance producer who is required by statute to obtain pre-licensing education and pass an examination.

Approved Pre-Licensing Course—an education program certified by the Commissioner pursuant to R.S. 22:1571.

Commissioner—the Commissioner of Insurance for the State of Louisiana.

Insurance Producer—as defined in R.S. 1542(6).

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, R.S. 22:2, R.S. 22:11, and R.S. 22:1553.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3707. Temporary License Application

A. An individual that has completed a Louisiana approved pre-licensing course no more than 12 months prior and who would be eligible to sit for the applicable pre-licensing examination if the contracted testing centers were available may request issuance of a temporary license for the line or lines of insurance for which they have met the pre-license education requirement.

B. The individual shall submit an insurance producer license application for the line or lines of insurance using the National Insurance Producer Registration (NIPR) website at nipr.com and pay the appropriate fee upon submission.

C. After receiving confirmation of the submission of the application using nipr.com, the applicant shall submit a written request to be issued a temporary license to the Louisiana Department of Insurance by email to producerlicensing@ldi.la.gov. That written request must include the transaction number received from nipr.com upon submission of the application and include a copy of the pre-license program completion certificate issued by the approved pre-licensing provider to the individual.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, R.S. 22:2, R.S. 22:11, and R.S. 22:1553.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3709. Condition of Issuance of Temporary License

A. An applicant for a temporary license pursuant to this Emergency Rule shall not have been convicted of a felony.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, R.S. 22:2, R.S. 22:11, and R.S. 22:1553.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3711. Expiration of Temporary License

A. All temporary licenses issued pursuant to this Emergency Rule shall expire on May 15, 2020 unless the term is extended by Order of the Commissioner.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, R.S. 22:2, R.S. 22:11, and 22:1553.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3713. Conversion of Temporary License

A. Any temporary license issued pursuant to Emergency Regulation 38 may be converted into a permanent license by completion of all prerequisites of a license for the line or lines of insurance including passing the required examination and submission of fingerprints pursuant to the applicable statutes prior to expiration of the temporary license.

B. No additional fee shall be required in association with the issuance of a permanent license.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, R.S. 22:2, R.S. 22:11, and R.S. 22:1553.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3715. License Denial, Suspension or Revocation

A. The commissioner may refuse to issue, suspend or revoke any temporary license issued pursuant to Emergency Rule 38 for any of the reasons set forth in R.S. 22:1554.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, R.S. 22:2, R.S. 22:11, and R.S. 22:1553.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3717. Effective Date

A. Emergency Rule 38 shall become effective at 12:01 a.m. on March 25, 2020 and shall continue in full force and effect until May 15, 2020, unless terminated sooner.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, R.S. 22:2, R.S. 22:11, and R.S. 22:1553.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3719. Severability

A. If any section or provision of Emergency Rule 38 or its application to any person or circumstance is held invalid, such invalidity or determination shall not affect other sections or provisions or the application of Emergency Rule 38 to any persons or circumstances that can be given effect without the invalid section or provision or application, and for these purposes the sections and provisions of Emergency Rule 38 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, R.S. 22:2, R.S. 22:11, and R.S. 22:1553.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

James J. Donelon
Commissioner

2004#019

DECLARATION OF EMERGENCY

**Department of Insurance
Office of the Commissioner**

Emergency Rule 39—Mid-Term Audit of Auditable Policies
(LAC 37:Chapter 39)

On January 31, 2020, the United States Department of Health and Human Services Secretary Alex A. Azar declared a public health emergency (PHE) for the United States to aid the nation’s healthcare community in responding to the coronavirus disease (COVID-19). The United States Centers for Disease Control and Prevention (CDC) has declared COVID-19 a worldwide pandemic due to its global effect. Furthermore, on March 13, 2020, President Donald Trump invoked the Stafford Act and declared a national emergency regarding the COVID-19 outbreak. COVID-19 has been detected in the state of Louisiana with a growing number of residents testing positive for the disease. It has been established that COVID-19 is spreading among the population of Louisiana by various means of exposure, therefore posing a significant risk of substantial harm to a large number of citizens of Louisiana.

Emergency Rule 39 is issued to address the mass disruption to the normalcy previously enjoyed by citizens of Louisiana caused by the effects of COVID-19. Specifically, the stay at home order inhibits the ability of insureds who operate commercial enterprises to maintain their normal

workforce to perform the functions of their business operations from which they earn income that allows them to pay their insurance premiums. Many commercial insurance policies are rated based on variable and auditable exposures, including but not limited to, payroll, sales, enrollment, attendance, occupancy rates, and square footage. Emergency Rule 39 is issued under the authority of the Commissioner of Insurance for the State of Louisiana, pursuant to the following: Proclamation No. JBE 2020-25 issued on March 11, 2020, by Governor John Bel Edwards declaring a State of Emergency extending from March 11, 2020 through April 9, 2020 unless terminated sooner; Proclamation No. JBE 2020-29 issued on March 14, 2020 transferring authority over certain insurance matters to Commissioner of Insurance James J. Donelon (Commissioner); Proclamation No. JBE 2020-33 issued on March 22, 2020 by Governor John Bel Edwards declaring a stay at home order and closure of nonessential businesses until April 13, 2020 unless terminated sooner; and Proclamation No. JBE 2020-37 issued on March 26, 2020 transferring authority over certain insurance matters to Commissioner of Insurance James J. Donelon (Commissioner).

COVID-19 has created a mass disruption to the normalcy previously enjoyed by commercial enterprises in Louisiana and is an immediate threat to the public health, safety, and welfare of all Louisiana citizens. In order to respond to the COVID-19 emergency and to protect and safeguard the public, health, safety, and welfare of the citizens of this state, it is necessary to issue Emergency Rule 39.

Title 37

INSURANCE

Part XI. Rules

Chapter 39. Emergency Rule 39—Mid-Term Audit of Auditable Policies

§3901. Purpose

A. Emergency Rule 39 provides for the procedure whereby insureds who operate commercial enterprises in Louisiana can make demand upon their admitted insurers to allow for either a mid-term audit by the insured or a physical audit by the insurer of those insurance policies that are auditable in order to appropriately and immediately adjust the premium for the risks that have negatively affected the ability of commercial enterprises to operate in the normal course of their business. Emergency Rule 39 is issued due to COVID-19 and following the issuance of: Proclamation No. JBE 2020-25 issued on March 11, 2020, by Governor John Bel Edwards declaring a State of Emergency extending from March 11, 2020 through April 9, 2020 unless terminated sooner; Proclamation No. JBE 2020-29 issued on March 14, 2020 transferring authority over certain insurance matters to Commissioner of Insurance James J. Donelon (Commissioner); Proclamation No. JBE 2020-33 issued on March 22, 2020 by Governor John Bel Edwards declaring a stay at home order and closure of nonessential businesses until April 13, 2020 unless terminated sooner; and Proclamation No. JBE 2020-37 issued on March 26, 2020 transferring authority over certain insurance matters to Commissioner of Insurance James J. Donelon (Commissioner).

B. An additional purpose of Emergency Rule 39 is to set forth the procedures that will control the actions of those admitted insurers who have provided commercial insurance

coverage to those commercial insureds whose insurance policies are rated using an auditable exposure basis, including but not limited to, payroll, sales, enrollment, attendance, occupancy rates, square footage or any other basis.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, R.S. 22:2, R.S. 22:11, and R.S. 22:1261 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3903. Applicability and Scope

A. Emergency Rule 39 shall apply to all admitted insurers who issued any policy of insurance in Louisiana that provides insurance coverage to commercial insureds whose insurance policy is rated using an auditable exposure basis, including but not limited to, payroll, sales, enrollment, attendance, occupancy rates, square footage or any other basis.

B. Emergency Rule 39 shall apply to any commercial policyholder in Louisiana regarding any commercial insurance policies rated using an auditable exposure basis, including but not limited to, payroll, sales, enrollment, attendance, occupancy rates, square footage or any other basis.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, R.S. 22:2, R.S. 22:11, and R.S. 22:1261 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3905. Definitions

A. For purposes of Emergency Rule 39 the following terms are defined.

Auditable Insurance Policy—a policy of insurance that provides commercial insurance coverage to insureds that is rated using an auditable exposure basis, including, but not limited to, payroll, sales, enrollment, attendance, occupancy rates, square footage or any other basis.

Commissioner—the Commissioner of Insurance for the State of Louisiana.

Insured—a natural person or juridical person who is operating a commercial enterprise in Louisiana who has a policy of commercial insurance issued by an admitted insurer.

Insurer—an authorized insurer as defined in R.S. 22:46(3) and operating in Louisiana and who has delivered or issued for delivery in Louisiana an auditable insurance policy.

Physical Audit—an on-site or desk examination conducted by the insurer that analyzes the rating variables that form the basis for the premium.

Self-Audit—an examination conducted by the insured that analyzes the rating variables that form the basis for the premium.

Surplus Lines Insurer—an approved unauthorized insurer, an eligible unauthorized insurer, or a domestic surplus lines insurer as defined in R.S. 22:46(17.1) operating in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, R.S. 22:2, R.S. 22:11, and R.S. 22:1261 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3907. Surplus Lines Insurers

A. Surplus lines insurers are urged and requested to adhere to Emergency Rule 39.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, R.S. 22:2, R.S. 22:11, and R.S. 22:1261 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3909. Insured’s Right to Demand Mid-Term Self-Audit and Insurers Obligation

A. Any insured who has an auditable insurance policy issued by an admitted insurer shall have the right to make a demand upon its admitted insurer to permit the insured to immediately conduct a mid-term self-audit of the insurance policy.

B. Any admitted insurer who receives a demand from its insured for a mid-term self-audit shall honor the demand and shall assist in the mid-term self-audit being conducted by the insured.

C. A demand by an insured for a mid-term self-audit made at any time before the termination of Emergency Rule 39 shall be valid and enforceable between the insured and the admitted insurer. Further, the insured shall have the right to complete the mid-term self-audit at any time up to the termination of the insurance policy.

D. Upon the completion of the mid-term self-audit by the insured, the insured shall promptly transmit the results of the mid-term self-audit to the admitted insurer.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, R.S. 22:2, R.S. 22:11, and R.S. 22:1261 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3911. Insurer’s Right to Conduct Physical Audit and Insured’s Duty to Cooperate

A. Any admitted insurer who, pursuant to Emergency Rule 39, has been required to allow its insured to conduct a mid-term self-audit retains the right to conduct a physical audit of the auditable insurance policy at any time during the policy term or at the end of the policy term as provided in the insurance policy terms and conditions in order to ensure the calculation of proper premium for the risk.

B. If an admitted insurer chooses to conduct a mid-term physical audit, it shall transmit the results of said mid-term physical audit to the insured immediately and without the necessity of any demand by the insured.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, R.S. 22:2, R.S. 22:11, and R.S. 22:1261 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3913. Adjustment of Premium upon Completion of Mid-Term Audit

A. If the mid-term self-audit conducted by the insured establishes that the presumptive premium charged at the initiation of the subject insurance policy is now in excess of what the premium would be based on the current rating variables, the admitted insurer shall adjust the premium immediately but in no event less than 10 days from the completion of the mid-term self-audit.

B. Any overpayment of premium shall result in the admitted insurer making a refund of the overpayment to the insured within 10 days from the completion of the mid-term self-audit.

C. Upon the completion of the mid-term self-audit, the admitted insurer and the insured shall continue to operate in the normal course of business as set forth in the insurance

policy, except as otherwise provided for by Emergency Rule 39.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, R.S. 22:2, R.S. 22:11, and R.S. 22:1261 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3915. Effective Date

A. Emergency Rule 39 shall become effective at 12:01 a.m. on March 26, 2020 and shall continue in full force and effect until April 13, 2020, unless terminated sooner.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, R.S. 22:2, R.S. 22:11, and R.S. 22:1261 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3917. Severability

A. If any section or provision of Emergency Rule 39 or its application to any person or circumstance is held invalid, such invalidity or determination shall not affect other sections or provisions or the application of Emergency Rule 39 to any persons or circumstances that can be given effect without the invalid section or provision or application, and for these purposes the sections and provisions of Emergency Rule 39 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, R.S. 22:2, R.S. 22:11, and R.S. 22:1261 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

James J. Donelon
Commissioner

2004#022

DECLARATION OF EMERGENCY

**Department of Insurance
Office of the Commissioner**

**Emergency Rule 39—Mid-Term Audit of Auditable Policies
(LAC 37:XI.Chapter 39)**

On January 31, 2020, the United States Department of Health and Human Services Secretary Alex A. Azar declared a public health emergency (PHE) for the United States to aid the nation’s healthcare community in responding to the coronavirus disease (COVID-19). The United States Centers for Disease Control and Prevention (CDC) has declared COVID-19 a worldwide pandemic due to its global effect. Furthermore, on March 13, 2020, President Donald Trump invoked the Stafford Act and declared a national emergency regarding the COVID-19 outbreak. COVID-19 has been detected in the state of Louisiana with a growing number of residents testing positive for the disease. It has been established that COVID-19 is spreading among the population of Louisiana by various means of exposure, therefore posing a significant risk of substantial harm to a large number of citizens of Louisiana.

The Department of Insurance hereby exercises the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), as further specified by R.S. 22:11.1, and pursuant to the authority granted by R.S. 22:1 et seq., adopts,

maintains, and continues in effect Emergency Rule 39 until May 12, 2020, unless terminated sooner, which is issued to address the statewide public health emergency declared to exist in the state of Louisiana as the result of the imminent threat posed to Louisiana citizens by COVID-19, creating emergency conditions threatening the lives and health of the citizens of this state. Emergency Rule 39 became effective March 26, 2020 and shall continue in effect until May 12, 2020, unless terminated sooner, as allowed under the Administrative Procedure Act.

Emergency Rule 39 is issued to address the mass disruption to the normalcy previously enjoyed by citizens of Louisiana caused by the effects of COVID-19. Specifically, the stay at home order inhibits the ability of insureds who operate commercial enterprises to maintain their normal workforce to perform the functions of their business operations from which they earn income that allows them to pay their insurance premiums. Many commercial insurance policies are rated based on variable and auditable exposures, including but not limited to, payroll, sales, enrollment, attendance, occupancy rates, and square footage. Emergency Rule 39 is issued under the authority of the Commissioner of Insurance for the State of Louisiana, pursuant to the following: Proclamation No. JBE 2020-25 issued on March 11, 2020, by Governor John Bel Edwards declaring a State of Emergency extending from March 11, 2020 through April 9, 2020 unless terminated sooner; Proclamation No. JBE 2020-29 issued on March 14, 2020 transferring authority over certain insurance matters to Commissioner of Insurance James J. Donelon (Commissioner); Proclamation No. JBE 2020-33 issued on March 22, 2020 by Governor John Bel Edwards declaring a stay at home order and closure of nonessential businesses until April 13, 2020 unless terminated sooner; Proclamation No. JBE 2020-37 issued on March 26, 2020 transferring authority over certain insurance matters to Commissioner of Insurance James J. Donelon (Commissioner); and Proclamation No. JBE 2020-41 issued on April 2, 2020 extending the stay at home order and closure of nonessential businesses until April 30, 2020 unless terminated sooner.

Accordingly, Emergency Rule 39 shall apply to all admitted insurers who issued any policy of insurance in Louisiana that provides insurance coverage to commercial insureds whose insurance policy is rated using an auditable exposure basis, including but not limited to, payroll, sales, enrollment, attendance, occupancy rates, square footage or any other basis and to any commercial policyholder in Louisiana regarding any commercial insurance policies rated using an auditable exposure basis, including but not limited to, payroll, sales, enrollment, attendance, occupancy rates, square footage or any other basis.

COVID-19 has created a mass disruption to the normalcy previously enjoyed by commercial enterprises in Louisiana and is an immediate threat to the public health, safety, and welfare of all Louisiana citizens. In order to respond to the COVID-19 emergency and to protect and safeguard the public, health, safety, and welfare of the citizens of this state, it is necessary to issue Emergency Rule 39.

Title 37
INSURANCE
Part XI. Rules

Chapter 39. Emergency Rule 39—Mid-Term Audit of Auditable Policies

§3901. Purpose

A. Emergency Rule 39 provides for the procedure whereby insureds who operate commercial enterprises in Louisiana can make demand upon their admitted insurers to allow for either a mid-term audit by the insured or a physical audit by the insurer of those insurance policies that are auditable in order to appropriately and immediately adjust the premium for the risks that have negatively affected the ability of commercial enterprises to operate in the normal course of their business. Emergency Rule 39 is issued due to COVID-19 and following the issuance of: Proclamation No. JBE 2020-25 issued on March 11, 2020, by Governor John Bel Edwards declaring a State of Emergency extending from March 11, 2020 through April 9, 2020 unless terminated sooner; Proclamation No. JBE 2020-29 issued on March 14, 2020 transferring authority over certain insurance matters to Commissioner of Insurance James J. Donelon (Commissioner); Proclamation No. JBE 2020-33 issued on March 22, 2020 by Governor John Bel Edwards declaring a stay at home order and closure of nonessential businesses until April 13, 2020 unless terminated sooner; Proclamation No. JBE 2020-37 issued on March 26, 2020 transferring authority over certain insurance matters to Commissioner of Insurance James J. Donelon (Commissioner); and Proclamation No. JBE 2020-41 issued April 2, 2020 extending the stay at home order and closure of nonessential businesses until April 30, 2020 unless terminated sooner.

B. An additional purpose of Emergency Rule 39 is to set forth the procedures that will control the actions of those admitted insurers who have provided commercial insurance coverage to those commercial insureds whose insurance policies are rated using an auditable exposure basis, including but not limited to, payroll, sales, enrollment, attendance, occupancy rates, square footage or any other basis.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, R.S. 22:11, and R.S. 22:1261 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3903. Applicability and Scope

A. Emergency Rule 39 shall apply to all admitted insurers who issued any policy of insurance in Louisiana that provides insurance coverage to commercial insureds whose insurance policy is rated using an auditable exposure basis, including but not limited to, payroll, sales, enrollment, attendance, occupancy rates, square footage or any other basis.

B. Emergency Rule 39 shall apply to any commercial policyholder in Louisiana regarding any commercial insurance policies rated using an auditable exposure basis,

including but not limited to, payroll, sales, enrollment, attendance, occupancy rates, square footage or any other basis.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, R.S. 22:11, and R.S. 22:1261 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3905. Definitions

A. For purposes of Emergency Rule 39 the following terms are defined:

Auditable Insurance Policy—a policy of insurance that provides commercial insurance coverage to insureds that is rated using an auditable exposure basis, including, but not limited to, payroll, sales, enrollment, attendance, occupancy rates, square footage or any other basis.

Commissioner—the Commissioner of Insurance for the State of Louisiana.

Insured—a natural person or juridical person who is operating a commercial enterprise in Louisiana who has a policy of commercial insurance issued by an admitted insurer.

Insurer—an authorized insurer as defined in R.S. 22:46(3) and operating in Louisiana and who has delivered or issued for delivery in Louisiana an auditable insurance policy.

Physical Audit—an on-site or desk examination conducted by the insurer that analyzes the rating variables that form the basis for the premium.

Self-Audit—an examination conducted by the insured that analyzes the rating variables that form the basis for the premium.

Surplus Lines Insurer—an approved unauthorized insurer, an eligible unauthorized insurer, or a domestic surplus lines insurer as defined in R.S. 22:46(17.1) operating in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, R.S. 22:11, and R.S. 22:1261 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3907. Surplus Lines Insurers

A. Surplus lines insurers are urged and requested to adhere to Emergency Rule 39.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, R.S. 22:11, and R.S. 22:1261 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3909. Insured's Right to Demand Mid-Term Self-Audit and Insurers Obligation

A. Any insured who has an auditable insurance policy issued by an admitted insurer shall have the right to make a demand upon its admitted insurer to permit the insured to immediately conduct a mid-term self-audit of the insurance policy.

B. Any admitted insurer who receives a demand from its insured for a mid-term self-audit shall honor the demand and shall assist in the mid-term self-audit being conducted by the insured.

C. A demand by an insured for a mid-term self-audit made at any time before the termination of Emergency Rule 39 shall be valid and enforceable between the insured and the admitted insurer. Further, the insured shall have the right to complete the mid-term self-audit at any time up to the termination of the insurance policy.

D. Upon the completion of the mid-term self-audit by the insured, the insured shall promptly transmit the results of the mid-term self-audit to the admitted insurer.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, R.S. 22:11, and R.S. 22:1261 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3911. Insurer's Right to Conduct Physical Audit and Insured's Duty to Cooperate

A. Any admitted insurer who, pursuant to Emergency Rule 39, has been required to allow its insured to conduct a mid-term self-audit retains the right to conduct a physical audit of the auditable insurance policy at any time during the policy term or at the end of the policy term as provided in the insurance policy terms and conditions in order to ensure the calculation of proper premium for the risk.

B. If an admitted insurer chooses to conduct a mid-term physical audit, it shall transmit the results of said mid-term physical audit to the insured immediately and without the necessity of any demand by the insured.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, R.S. 22:11, and R.S. 22:1261 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3913. Adjustment of Premium upon Completion of Mid-Term Audit

A. If the mid-term self-audit conducted by the insured establishes that the presumptive premium charged at the initiation of the subject insurance policy is now in excess of what the premium would be based on the current rating variables, the admitted insurer shall adjust the premium immediately but in no event less than 10 days from the completion of the mid-term self-audit.

B. Any overpayment of premium shall result in the admitted insurer making a refund of the overpayment to the insured within 10 days from the completion of the mid-term self-audit.

C. Upon the completion of the mid-term self-audit, the admitted insurer and the insured shall continue to operate in the normal course of business as set forth in the insurance policy, except as otherwise provided for by Emergency Rule 39.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37,

Proclamation No. JBE 2020-41, R.S. 22:2, R.S. 22:11, and R.S. 22:1261 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3915. Effective Date

A. Emergency Rule 39 became effective March 26, 2020 and shall continue in effect until May 12, 2020, unless terminated sooner, as allowed under the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, R.S. 22:11, and R.S. 22:1261 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§3917. Severability

A. If any section or provision of Emergency Rule 39 or its application to any person or circumstance is held invalid, such invalidity or determination shall not affect other sections or provisions or the application of Emergency Rule 39 to any persons or circumstances that can be given effect without the invalid section or provision or application, and for these purposes the sections and provisions of Emergency Rule 39 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, R.S. 22:11, and R.S. 22:1261 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

James J. Donelon
Commissioner

2004#058

DECLARATION OF EMERGENCY

**Department of Insurance
Office of the Commissioner**

**Emergency Rule 40—Moratorium on Policy
Cancellations/Non-Renewals for Policyholders in Louisiana
during the Outbreak of Coronavirus Disease (COVID-19)**

On January 31, 2020, the United States Department of Health and Human Services Secretary Alex A. Azar declared a public health emergency (PHE) for the United States to aid the nation’s healthcare community in responding to the coronavirus disease (COVID-19). The United States Centers for Disease Control and Prevention (CDC) has declared COVID-19 a worldwide pandemic due to its global effect. Furthermore, on March 13, 2020, President Donald Trump invoked the Stafford Act and declared a national emergency regarding the COVID-19 outbreak. COVID-19 has been detected in the State of Louisiana with a growing number of residents testing positive for the disease. There is reason to believe that COVID-19 may spread among the population by various means of exposure, therefore posing a significant risk of substantial harm to a large number of citizens of Louisiana.

Emergency Rule 40 is issued to address the statewide public health emergency declared to exist in the state of Louisiana as the result of the imminent threat posed to Louisiana citizens by COVID-19, creating emergency conditions threatening the lives and health of the citizens of this state. Emergency Rule 40 is issued under the authority of the Commissioner of Insurance for the State of Louisiana, pursuant to the following: Proclamation No. JBE 2020-25 issued on March 11, 2020 by Governor John Bel Edwards declaring a State of Emergency extending from March 11, 2020 through April 9, 2020, unless terminated sooner; Proclamation No. JBE 2020-29 issued on March 14, 2020 transferring authority over certain insurance matters to Commissioner of Insurance James J. Donelon (Commissioner); Proclamation No. JBE 2020-33 issued on March 22, 2020 by Governor John Bel Edwards declaring a stay at home order and closure of nonessential businesses until April 13, 2020, unless terminated sooner; and Proclamation No. JBE 2020-37 issued on March 26, 2020 by Governor John Bel Edwards transferring authority over certain insurance matters to Commissioner of Insurance James J. Donelon (Commissioner).

Accordingly, Emergency Rule 40 shall apply to any and all kinds of insurers as set forth in R.S. 22:48, and any and all kinds of insurance as set forth in R.S. 22:47, including, but not limited to all property and casualty insurers, all life insurers, all annuity insurers, and all health maintenance organizations (HMOs), managed care organizations (MCOs), preferred provider organizations (PPOs), pharmacy benefit managers (PBMs), and third party administrators (TPAs) acting on behalf of an HMO, MCO, PPO, and any and all other insurance related entities licensed by the Commissioner or doing business in Louisiana (collectively known as “health insurance issuers”) and their insureds, policyholders, members, subscribers, enrollees and certificate holders.

COVID-19 has created a mass disruption to the normalcy previously enjoyed by Louisianans and is an immediate threat to the public health, safety, and welfare of Louisiana citizens. To minimize these threats, the State of Louisiana has had to impose significant measures that will certainly have a negative economic impact on the state, resulting in financial hardship for the citizens of Louisiana regarding all matters related to all insurers and all kinds of insurance and also threatening access to adequate coverage during an event in which access to such coverage is uniquely important. In order to respond to the emergency and to protect and safeguard the public health, safety, and welfare of the citizens of this state, it is necessary to issue Emergency Rule 40.

**Title 37
INSURANCE
Part XI. Rules**

**Chapter 40. Emergency Rule 40—Moratorium on
Policy Cancellations and Non-Renewals
for Policyholders in Louisiana during the
Outbreak of Coronavirus Disease
(COVID-19)**

§4001. Benefits, Entitlements, and Protections

A. The benefits, entitlements and protections of Emergency Rule 40 shall be applicable to insureds, policyholders, members, subscribers, enrollees and

certificate holders who, as of 12:01 a.m. on March 12, 2020 have an insurance policy, insurance contract, or certificate of coverage for any of the kinds of insurance enumerated in §4003.

B. Emergency Rule 40 shall apply to any authorized insurer as defined in R.S. 22:46(3) operating in Louisiana, and to any approved unauthorized insurer, eligible unauthorized insurer, or domestic surplus lines insurer as defined in R.S. 22:46(17.1) operating in Louisiana (sometimes referred to as a surplus lines insurer).

C. Emergency Rule 40 shall apply to every health and accident insurer, health maintenance organization (HMO), managed care organization (MCO), preferred provider organization (PPO), pharmacy benefit manager (PBM), and third party administrator (TPA) acting on behalf of a health insurance issuer, HMO, MCO, PPO, and any and all other insurance related entities licensed by the Commissioner or doing business in Louisiana (collectively known as “health insurance issuers”).

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, Proclamation JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4003. Applicability and Scope

A. Emergency Rule 40 shall apply to any and all kinds of insurance set forth in R.S. 22:47, including, but not limited to, life, vehicle, liability, workers’ compensation, burglary and forgery, fidelity, title, fire and allied lines, steam boiler and sprinkler leakage, crop, marine and transportation, miscellaneous, homeowners’, credit life, health and accident, credit property and casualty, annuity, surety, and industrial fire. The applicability of Emergency Rule 40 to health and accident insurance is specified in §4003.B.

B. Emergency Rule 40 shall apply to any and all kinds of health and accident insurance, including, but not limited to, group and individual health and accident insurance, limited benefit insurance, Medicare supplement insurance, Medicare select insurance, HMOs, PPOs, MCOs except those subject only to licensure and financial solvency regulation pursuant to R.S. 22:1016, excess loss insurance, stop loss insurance, disability income insurance, short-term health insurance, long-term care insurance, and any and all other health insurance.)

C. Emergency Rule 40 §4015 shall apply to only those kinds of insurance provided for in §4003.A and those kinds of insurers specified in §4001.B.

D. Emergency Rule 40 §§4013, 4019, 4021, 4025, 4027, and 4031 shall apply only to those kinds of insurance provided for in §4003.B and those health insurance issuers specified in §4001.C.

E. All provisions of Emergency Rule 40 not expressly limited in §4003.C and D shall apply to all kinds of insurers and all kinds of insurance as defined in §4001 and §4003.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, Proclamation JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4005. Cancellation, Nonrenewal, and Nonreinstatement

A. Emergency Rule 40 hereby suspends any notice of cancellation, notice of nonrenewal, nonreinstatement or any other notice related to any of the kinds of insurance enumerated in §4003 that was in force and effect at 12:01 a.m. on March 12, 2020, and any such notice shall be null and void and have no force of effect. Furthermore, any such notice shall be reissued de novo to the insured in accordance with existing statutory requirements after the expiration of Emergency Rule 40 as provided for in §4043.

B. Any and all provisions in the Louisiana Insurance Code, Title 22, relative to providing for a premium finance company to act on behalf of and/or as agent for an insurance company or an insured is hereby suspended. In furtherance thereof, the right, entitlement, legal provision or any other form of legal authority, including any policy provision, of any insurer to send a notice of cancellation is suspended effective 12:01 a.m. on March 12, 2020, and any such notice shall be null and void and have no legal force or effect. Furthermore, any such notice shall be reissued de novo to the insured in accordance with existing statutory requirements after the expiration of Emergency Rule 40 as provided for in §4043. Emergency Rule 40 hereby suspends the right of any insurer to utilize the services of a premium finance company to issue any such notice to any insured.

C. No policy shall be cancelled or nonrenewed solely because of a claim that is filed during or occurs during the COVID-19 emergency.

D. Unless otherwise expressly authorized in writing by the commissioner, the cancellation, nonrenewal or nonreinstatement of any insurance policy related to any of the kinds of insurance enumerated in §4003 is hereby suspended and shall not be allowed until after the expiration of Emergency Rule 40 as provided for in §4043.

E. All cancellation, nonrenewal, or nonreinstatement provisions, including, but not limited to, R.S. 22:272, 22:887(F), 22:978, 22:1068, and 22:1074 are hereby suspended, except to the extent such provisions apply to acts or practices constituting fraud or intentional misrepresentations of material fact.

F. As set forth in §4033, Emergency Rule 40 shall not prevent an insurer from cancelling or terminating an insurance policy for fraud or material misrepresentation on the part of the insured.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, Proclamation JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4007. Renewal

A. The renewal conditions of all kinds of insurance enumerated in §4003 that are subject to renewal after the effective date of Emergency Rule 40 are suspended and shall be deferred until the expiration of Emergency Rule 40 as provided for in §4043. All policies subject to renewal after the effective date of Emergency Rule 40 shall continue in full force and effect at the previously established premium

until the expiration of Emergency Rule 40 as provided for in §4043.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, Proclamation JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4009. Written Request for Cancellation by Insured

A. Except as provided for in §4033 herein, a cancellation shall not occur prior to the expiration of Emergency Rule 40 unless upon the documented written request or written concurrence of the insured.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, Proclamation JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4011. New Policies

A. Emergency Rule 40 shall not apply to any new insurance policy for any of the kinds of insurance enumerated in §4003 if said insurance policy is issued on or after March 12, 2020.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, Proclamation JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4013. Claims Notification

A. All claims notification procedures, including, but not limited to, R.S. 22:975(A)(3)-(5), Regulation 33, Regulation 74, and Regulation 77, are suspended.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, Proclamation JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4015. Premium Offset

A. All insurers subject to Emergency Rule 40 receiving a claim from an insured owing a premium may offset the premium owed by the insured from any claim payment made to the insured under the insurance policy. §4015 shall not apply to health insurance issuers as defined in §4001.C.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, Proclamation JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4017. Obligation of Insured to Pay Premium

A. Unless otherwise cancelled pursuant to the provisions of §4009 herein, nothing in Emergency Rule 40 shall be construed to exempt or excuse an insured from the obligation to pay the premiums otherwise due for actual insurance coverage provided.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, Proclamation JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4019. Timely Payment of Health Claims

A. Only to the extent necessary to permit the pending of claims during a premium payment delinquency by the insured, the provisions of R.S. 22:1832-1834 and Regulation 74 related to timely payment of claims are hereby suspended.

B. For any policy of insurance described in §4003.B which, as a result of nonpayment of premium, would be subject to cancellation or termination but for the suspension ordered in §4005, the health insurance issuer may pend all claims which would not have been denied under such cancellation or termination until the health insurance issuer receives the delinquent premium payment or until such time the health insurance issuer is subsequently entitled to cancel or terminate the policy for non-payment of premium.

C. Once a health insurance issuer receives the delinquent premium payment, all pending claims associated for the time period to which such payment applies shall be processed and adjudicated. The health insurance issuer shall notify the health care provider that the claim is no longer pending and is being processed and adjudicated for payment. Furthermore, the suspension provided for in §4019.A shall be automatically lifted and all applicable timely payment requirements reinstated upon the date of the payment of premium.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, Proclamation JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4021. Payment of Health Claims

A. In the event a health insurance issuer pends a claim, as permitted pursuant to §4019, and is subsequently entitled to cancel or terminate a policy for nonpayment of premium, the health insurance issuer shall pay that claim to the health care provider or health care profession at not less than the following rate or allowance:

1. for contracted health care providers or health care professionals, 50 percent of the contracted reimbursement rate;

2. for contracted health care providers or health care professionals, 50 percent of the non-participating rate or allowance;

3. with regard to claims submitted pursuant to this Section, when the underlying policy is cancelled or terminated for nonpayment of premium, health insurance issuers shall be allowed to conduct medical necessity reviews on claims related to non-elective services. Non-elective services are those services that are emergent, urgent, or necessary in order to not place the health of the insured at risk;

4. with regard to any and all claims paid by health insurance issuers pursuant to the requirements of this Section, the provisions of R.S. 22:1838 and 22:1859 are hereby suspended and recoupment is prohibited.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, Proclamation JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4023. Insureds Obligation to Cooperate in Claim Process

A. Emergency Rule 40 shall not relieve an insured who has a claim filed before or during the pendency of Emergency Rule 40 from compliance with the insured's obligation to provide information and cooperate in the claim adjustment process relative to the claim.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, Proclamation JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4025. Physician Credentialing

A. The Commissioner hereby suspends physician credentialing pursuant to R.S. 22:1009 such that there are no credentialing requirements with regard to any and all licensed physicians who provide medical services between 12:01 a.m. on March 12, 2020 and the expiration of Emergency Rule 40 as provided for in §4043.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, Proclamation JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4027. New Rate of Premium of Health Insurance

A. For all health insurance issuers specified in §4001.C, any rate increases that were to take effect after the effective date of Emergency Rule 40 are suspended and shall be deferred until the expiration of Emergency Rule 40 as provided for in §4043.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, Proclamation JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4029. Imposition of Interest, Penalty, or Other Charge

A. The commissioner hereby suspends the imposition of any interest, penalty, or other charge and declares that no interest, penalty, or other charge shall accrue or be assessed against any insured as the result of the suspensions ordered in Emergency Rule 40.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, Proclamation JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4031. Continuation of Health Coverage

A. The commissioner hereby suspends R.S. 22:1046. In furtherance thereof, a health insurance issuer who has issued a group health insurance policy shall provide to all members or certificate holders under said group policy the option for the continuation of coverage, which said option shall begin on the day after the expiration of Emergency Rule 40 as provided for in §4043. This Section is only applicable in those situations where the employer to whom the group policy had been issued remains in business and continues to offer said group health insurance to active employees for the duration of Emergency Rule 40.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, Proclamation JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4033. Fraud or Material Misrepresentation

A. Emergency Rule 40 shall not prevent an insurer from cancelling or terminating an insurance policy for fraud or material misrepresentation on the part of the insured.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, Proclamation JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4035. Exemption from Compliance

A. Notwithstanding any other provision contained herein, the commissioner may exempt any insurer from compliance with Emergency Rule 40 upon the written request by the insurer setting forth in detail the reasons for the exemption and then only if the Commissioner determines that compliance with Emergency Rule 40 may be reasonably expected to result in said insurer being subject to undue hardship, impairment, or insolvency.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, Proclamation JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4037. Sanctions for Violations

A. The commissioner retains the authority to enforce violations of Emergency Rule 40. Accordingly, any insurer enumerated in Emergency Rule 40 or any other entity doing business in Louisiana and/or regulated by the Commissioner who violates any provision of Emergency Rule 40 shall be subject to regulatory action by the Commissioner under any applicable provisions of the Louisiana Insurance Code, Title 22.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, Proclamation JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4039. Authority

A. The commissioner reserves the right to amend, modify, alter, extend, or rescind all or any portion of Emergency Rule 40.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, Proclamation JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4041. Severability Clause

A. If any section or provision of Emergency Rule 40 or its application to any person or circumstance is held invalid, such invalidity or determination shall not affect other sections or provisions or the application of Emergency Rule 40 to any persons or circumstances that can be given effect without the invalid section or provision or application, and for these purposes the sections and provisions of Emergency Rule 40 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, Proclamation JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4043. Effective Date

A. Emergency Rule 40 shall become effective at 12:01 a.m. on March 26, 2020 and shall continue in full force and effect until expiration on the earlier of 11:59 p.m. on May 12, 2020 or 11:59 p.m. on the date the Governor lifts the State of Emergency presently in effect, inclusive of any renewal thereof.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-29, Proclamation JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

James J. Donelon
Commissioner

2004#023

DECLARATION OF EMERGENCY

Department of Insurance Office of the Commissioner

Emergency Rule 40—Moratorium on Policy Cancellations and Non-Renewals for Policyholders in Louisiana during the Outbreak of Coronavirus Disease (COVID-19) (LAC 37:XI.Chapter 40)

On January 31, 2020, the United States Department of Health and Human Services Secretary Alex A. Azar declared a public health emergency (PHE) for the United States to aid the nation’s healthcare community in responding to the coronavirus disease (COVID-19). The United States Centers for Disease Control and Prevention (CDC) has declared COVID-19 a worldwide pandemic due to its global effect. Furthermore, on March 13, 2020, President Donald Trump invoked the Stafford Act and declared a national emergency regarding the COVID-19 outbreak. COVID-19 has been detected in the State of Louisiana with a growing number of residents testing positive for the disease. There is reason to believe that COVID-19 may spread among the population by various means of exposure, therefore posing a significant risk of substantial harm to a large number of citizens of Louisiana.

Emergency Rule 40, originally issued on March 26, 2020, is hereby rescinded, and Emergency Rule 40 is hereby adopted to amend the guidance to provide further clarification of the rating plans that all insurers are to utilize in pricing their products, to provide for changes caused by the federal Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”), other matters related to the protections afforded to insureds, and how all insurers are to operate during Emergency Rule 40. Emergency Rule 40 is hereby adopted to continue to address the statewide public health emergency declared to exist in the state of Louisiana as the result of the imminent threat posed to Louisiana citizens by COVID-19, creating emergency conditions threatening the lives and health of the citizens of this state. Emergency Rule 40 is adopted and issued under the authority of the Commissioner of Insurance for the State of Louisiana, pursuant to the following: Proclamation No. JBE 2020-25 issued on March 11, 2020 by Governor John Bel Edwards declaring a State of Emergency extending from March 11, 2020 through April 9, 2020, unless terminated sooner; Proclamation No. JBE 2020-29 issued on March 14, 2020 transferring authority over certain insurance matters to Commissioner of Insurance James J. Donelon (commissioner); Proclamation No. JBE 2020-33 issued on March 22, 2020 by Governor John Bel Edwards declaring a stay at home order and closure of nonessential businesses

until April 13, 2020, unless terminated sooner; and Proclamation No. JBE 2020-37 issued on March 26, 2020 by Governor John Bel Edwards transferring authority over certain insurance matters to Commissioner of Insurance James J. Donelon (commissioner).

Accordingly, Emergency Rule 40 shall apply to any and all kinds of insurers as set forth in R.S. 22:48, and any and all kinds of insurance as set forth in R.S. 22:47, including, but not limited to all property and casualty insurers, all life insurers, all annuity insurers, and all health maintenance organizations (HMOs), managed care organizations (MCOs), preferred provider organizations (PPOs), pharmacy benefit managers (PBMs), and third party administrators (TPAs) acting on behalf of an HMO, MCO, PPO, and any and all other insurance related entities licensed by the commissioner or doing business in Louisiana (collectively known as “health insurance issuers”) and their insureds, policyholders, members, subscribers, enrollees and certificate holders.

COVID-19 has created a mass disruption to the normalcy previously enjoyed by Louisianans and is an immediate threat to the public health, safety, and welfare of Louisiana citizens. To minimize these threats, the State of Louisiana has had to impose significant measures that will certainly have a negative economic impact on the state, resulting in financial hardship for the citizens of Louisiana regarding all matters related to all insurers and all kinds of insurance and also threatening access to adequate coverage during an event in which access to such coverage is uniquely important. In order to respond to the emergency and to protect and safeguard the public health, safety, and welfare of the citizens of this state, it is necessary to adopt Emergency Rule 40.

Title 37 INSURANCE Part XI. Rules

Chapter 40. Emergency Rule 40—Moratorium on Policy Cancellations and Non-Renewals for Policyholders in Louisiana during the Outbreak of Coronavirus Disease (COVID-19)

§4001. Benefits, Entitlements, and Protections

A. The benefits, entitlements and protections of Emergency Rule 40 shall be applicable to insureds, policyholders, members, subscribers, enrollees and certificate holders who, as of 12:01 a.m. on March 12, 2020 have an insurance policy, insurance contract, or certificate of coverage for any of the kinds of insurance enumerated in §4003.

B. Emergency Rule 40 shall apply to any authorized insurer as defined in R.S. 22:46(3) operating in Louisiana, and to any approved unauthorized insurer, eligible unauthorized insurer, or domestic surplus lines insurer as defined in R.S. 22:46(17.1) operating in Louisiana (sometimes referred to as a surplus lines insurer).

C. Emergency Rule 40 shall apply to every health and accident insurer, health maintenance organization (HMO), managed care organization (MCO), preferred provider organization (PPO), pharmacy benefit manager (PBM), and third party administrator (TPA) acting on behalf of a health insurance issuer, HMO, MCO, PPO, and any and all other insurance related entities licensed by the commissioner or

doing business in Louisiana (collectively known as “health insurance issuers”).

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4003. Applicability and Scope

A. Emergency Rule 40 shall apply to any and all kinds of insurance set forth in R.S. 22:47, including, but not limited to, life, vehicle, liability, workers’ compensation, burglary and forgery, fidelity, title, fire and allied lines, steam boiler and sprinkler leakage, crop, marine and transportation, miscellaneous, homeowners’, credit life, health and accident, credit property and casualty, annuity, surety, and industrial fire. The applicability of Emergency Rule 40 to health and accident insurance is specified in §4003.B.

B. Emergency Rule 40 shall apply to any and all kinds of health and accident insurance, including, but not limited to, group and individual health and accident insurance, limited benefit insurance, Medicare supplement insurance, Medicare select insurance, HMOs, PPOs, MCOs except those subject only to licensure and financial solvency regulation pursuant to R.S. 22:1016, excess loss insurance, stop loss insurance, disability income insurance, short-term health insurance, long-term care insurance, and any and all other health insurance.)

C. Emergency Rule 40 §4015 shall apply to only those kinds of insurance provided for in §4003.A and those kinds of insurers specified in §4001.B.

D. Emergency Rule 40 §§4013, 4019, 4021, 4025, 4027, and 4031 shall apply only to those kinds of insurance provided for in §4003.B and those health insurance issuers specified in §4001.C.

E. All provisions of Emergency Rule 40 not expressly limited in §4003.C and D shall apply to all kinds of insurers and all kinds of insurance as defined in §4001 and §4003.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4005. Cancellation, Nonrenewal, and Nonreinstatement

A. Emergency Rule 40 hereby suspends any notice of cancellation, notice of nonrenewal, nonreinstatement or any other notice related to any of the kinds of insurance enumerated in §4003 that was in force and effect at 12:01 a.m. on March 12, 2020, and any such notice shall be null and void and have no force of effect. Furthermore, any such notice shall be reissued *de novo* to the insured in accordance with existing statutory requirements after the expiration of Emergency Rule 40 as provided for in §4043.

B. Insurers may issue a notice of cancellation for non-payment of premium during the pendency of Emergency Rule 40. When any such notice is issued during the pendency of Emergency Rule 40, the applicable notice period required by statute or the policy may begin to run, but in no event may the insurer cancel the insurance policy for non-payment of premium until after the expiration of Emergency Rule 40.

C. No policy shall be cancelled or nonrenewed solely because of a claim that is filed during or occurs during the COVID-19 emergency.

D. Unless otherwise expressly authorized in writing by the commissioner, the cancellation, nonrenewal or nonreinstatement of any insurance policy related to any of the kinds of insurance enumerated in §4003 is hereby suspended and shall not be allowed until after the expiration of Emergency Rule 40 as provided for in §4043.

E. All cancellation, nonrenewal, or nonreinstatement provisions, including, but not limited to, R.S. 22:272, 22:887(F), 22:978, 22:1068, and 22:1074 are hereby suspended, except to the extent such provisions apply to acts or practices constituting fraud or intentional misrepresentations of material fact.

F. As set forth in §4033, Emergency Rule 40 shall not prevent an insurer from cancelling or terminating an insurance policy for fraud or material misrepresentation on the part of the insured.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4007. Renewal

A. The renewal conditions of all kinds of insurance enumerated in §4003 that are subject to renewal after the effective date of Emergency Rule 40 are suspended and shall be deferred until the expiration of Emergency Rule 40 as provided for in §4043. All policies subject to renewal after the effective date of Emergency Rule 40 shall continue in full force and effect at the previously established premium until the expiration of Emergency Rule 40 as provided for in §4043. The previously established premium for renewals by authorized insurers shall be based on the rate structure, rating plan and manual rules that are approved by the commissioner, regardless of whether their effective date was before or during Emergency Rule 40. The previously established premium by authorized insurers for renewals of commercial deregulated insurance policies shall be based on the rate structure, rating plan and manual rules set forth in any filing submitted to the commissioner before or during Emergency Rule 40.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4009. Written Request for Cancellation by Insured

A. Except as provided for in §4033 herein, a cancellation shall not occur prior to the expiration of Emergency Rule 40 unless upon the documented written request or written concurrence of the insured. This written consent may be in electronic format.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4011. New Policies

A. Emergency Rule 40 shall not apply to any new insurance policy for any of the kinds of insurance enumerated in §4003 if said insurance policy is issued on or after March 12, 2020.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4013. Claims Notification

A. All claims notification procedures, including, but not limited to, R.S. 22:975(A)(3)-(5), Regulation 33, Regulation 74, and Regulation 77, are suspended.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4015. Premium Offset

A. All insurers subject to Emergency Rule 40 receiving a claim from an insured owing a premium may offset the premium owed by the insured from any claim payment made to the insured under the insurance policy. §4015 shall not apply to health insurance issuers as defined in §4001.C.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4017. Obligation of Insured to Pay Premium

A. Unless otherwise cancelled pursuant to the provisions of §4009 herein, nothing in Emergency Rule 40 shall be construed to exempt or excuse an insured from the obligation to pay the premium otherwise due for actual insurance coverage provided.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4019. Timely Payment of Health Claims

A. Only to the extent necessary to permit the pending of claims during a premium payment delinquency by the insured, the provisions of R.S. 22:1832-1834 and Regulation 74 related to timely payment of claims are hereby suspended.

B. For any policy of insurance described in §4003.B which, as a result of nonpayment of premium, would be subject to cancellation or termination but for the suspension ordered in §4005, the health insurance issuer may pend all claims which would not have been denied under such cancellation or termination until the health insurance issuer receives the delinquent premium payment or until such time the health insurance issuer is subsequently entitled to cancel or terminate the policy for non-payment of premium.

C. Once a health insurance issuer receives the delinquent premium payment, all pending claims associated for the time period to which such payment applies shall be processed and adjudicated. The health insurance issuer shall notify the

health care provider that the claim is no longer pending and is being processed and adjudicated for payment. Furthermore, the suspension provided for in §4019.A shall be automatically lifted and all applicable timely payment requirements reinstated upon the date of the payment of premium.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4021. Payment of Health Claims

A. In the event a health insurance issuer pends a claim, as permitted pursuant to §4019, and is subsequently entitled to cancel or terminate a policy for nonpayment of premium, the health insurance issuer shall pay that claim to the health care provider or health care profession at not less than the following rate or allowance:

1. for contracted health care providers or health care professionals, 50 percent of the contracted reimbursement rate;

2. for noncontracted health care providers or health care professionals, 50 percent of the non-participating rate or allowance;

3. with regard to claims submitted pursuant to this Section, when the underlying policy is cancelled or terminated for nonpayment of premium, health insurance issuers shall be allowed to conduct medical necessity reviews on claims related to non-elective services. Non-elective services are those services that are emergent, urgent, or necessary in order to not place the health of the insured at risk;

4. with regard to any and all claims paid by health insurance issuers pursuant to the requirements of this Section, the provisions of R.S. 22:1838 and 22:1859 are hereby suspended and recoupment is prohibited, except to the extent provided for in §4021.B.

B. This Section shall not apply to any claim otherwise compensable under the CARES Act, Pub. L. 116- 136, and subsequent guidance or regulations adopted by the U.S. Department of Health and Human Services in furtherance thereof. Health insurance issuers may seek recoupment of payment for such claims if otherwise permitted by law.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4023. Insureds Obligation to Cooperate in Claim Process

A. Emergency Rule 40 shall not relieve an insured who has a claim filed before or during the pendency of Emergency Rule 40 from compliance with the insured's obligation to provide information and cooperate in the claim adjustment process relative to the claim.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4025. Physician Credentialing

A. The commissioner hereby suspends physician credentialing pursuant to R.S. 22:1009 such that there are no credentialing requirements with regard to any and all licensed physicians who provide medical services between 12:01 a.m. on March 12, 2020 and the expiration of Emergency Rule 40 as provided for in §4043.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4027. New Rate of Premium of Health Insurance

A. For all health insurance issuers specified in §4001.C, any rate increases that were to take effect after the effective date of Emergency Rule 40 are suspended and shall be deferred until the expiration of Emergency Rule 40 as provided for in §4043.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4029. Imposition of Interest, Penalty, or Other Charge

A. The commissioner hereby suspends the imposition of any interest, penalty, or other charge and declares that no interest, penalty, or other charge shall accrue or be assessed against any insured as the result of the suspensions ordered in Emergency Rule 40.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4031. Continuation of Health Coverage

A. The commissioner hereby suspends R.S. 22:1046. In furtherance thereof, a health insurance issuer who has issued a group health insurance policy shall provide to all members or certificate holders under said group policy the option for the continuation of coverage, which said option shall begin on the day after the expiration of Emergency Rule 40 as provided for in §4043. This Section is only applicable in those situations where the employer to whom the group policy had been issued remains in business and continues to offer said group health insurance to active employees for the duration of Emergency Rule 40.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4033. Fraud or Material Misrepresentation

A. Emergency Rule 40 shall not prevent an insurer from cancelling or terminating an insurance policy for fraud or material misrepresentation on the part of the insured.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4035. Exemption from Compliance

A. Notwithstanding any other provision contained herein, the commissioner may exempt any insurer from compliance with Emergency Rule 40 upon the written request by the insurer setting forth in detail the reasons for the exemption and then only if the commissioner determines that compliance with Emergency Rule 40 may be reasonably expected to result in said insurer being subject to undue hardship, impairment, or insolvency.

B. Notwithstanding any other provision contained herein, Emergency Rule 40 shall not apply to a group health and accident policy issued to an employer that has applied for a loan provided for in the Paycheck Protection Program (PPP) of the CARES Act.

1. In determining the applicability of Emergency Rule 40, an insurer may require an attestation from an employer regarding its participation in the PPP. The insurer shall provide for electronic signature and submission of such attestation. If an employer fails to respond to a written request for an attestation within 15 days of such request, the insurer may presume the employer is participating in the PPP until it receives an attestation to the contrary.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4037. Sanctions for Violations

A. The commissioner retains the authority to enforce violations of Emergency Rule 40. Accordingly, any insurer enumerated in Emergency Rule 40 or any other entity doing business in Louisiana and/or regulated by the commissioner who violates any provision of Emergency Rule 40 shall be subject to regulatory action by the Commissioner under any applicable provisions of the Louisiana Insurance Code, Title 22.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4039. Authority

A. The commissioner reserves the right to amend, modify, alter, extend, or rescind all or any portion of Emergency Rule 40.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4041. Severability Clause

A. If any section or provision of Emergency Rule 40 or its application to any person or circumstance is held invalid, such invalidity or determination shall not affect other sections or provisions or the application of Emergency Rule 40 to any persons or circumstances that can be given effect without the invalid section or provision or application, and for these purposes the sections and provisions of Emergency Rule 40 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4043. Effective Date

A. Emergency Rule 40 shall become effective at 12:01 a.m. on March 12, 2020 and shall continue in full force and effect until expiration on the earlier of 11:59 p.m. on May 12, 2020 or 11:59 p.m. on the date the governor lifts the state of emergency presently in effect, inclusive of any renewal thereof.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, R.S. 22:2, R.S. 22:11, and R.S. 22:1961 et seq., R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

James J. Donelon
Commissioner

2004#029

DECLARATION OF EMERGENCY

Department of Insurance Office of the Commissioner

Emergency Rule 41—Medical Surge-Related Patient Transfers in Louisiana during the Outbreak of Coronavirus Disease (COVID-19) (LAC 41:XI.Chapter 41)

On January 31, 2020, the United States Department of Health and Human Services Secretary Alex A. Azar declared a public health emergency (PHE) for the United States to aid the nation's healthcare community in responding to the coronavirus disease (COVID-19). The United States Centers for Disease Control and Prevention (CDC) has declared COVID-19 a worldwide pandemic due to its global effect. Furthermore, on March 13, 2020, President Donald Trump invoked the Stafford Act and declared a national emergency regarding the COVID-19 outbreak. COVID-19 has been detected in the state of Louisiana with a growing number of residents testing positive for the disease. There is reason to believe that COVID-19 may spread among the population by various means of exposure, therefore posing a significant risk of substantial harm to a large number of citizens.

Emergency Rule 41 is issued to address the statewide public health emergency declared to exist in the state of Louisiana as the result of the imminent threat posed to Louisiana citizens by COVID-19, creating emergency conditions threatening the lives and health of the citizens of this state. As such, Emergency Rule 41 is issued under the authority of the Commissioner of Insurance for the State of Louisiana, pursuant to the following: Proclamation No. JBE 2020-25 issued on March 11, 2020, by Governor John Bel Edwards declaring a State of Emergency extending from March 11, 2020, through April 9, 2020, unless terminated sooner and Proclamation No. JBE 2020-29 issued on March 14, 2020, transferring authority over certain insurance

matters to Commissioner of Insurance James J. Donelon, Proclamation No. JBE 2020-37 issued on March 26, 2020 transferring authority over certain insurance matters to Commissioner of Insurance James J. Donelon. Additionally, Emergency Rule 41 is being issued following the issuance of Proclamation No. JBE 2020-33 issued on March 22, 2020 by Governor John Bel Edwards declaring a stay at home order and closure of nonessential businesses until April 13, 2020 unless terminated sooner.

Accordingly, Emergency Rule 41 shall apply to all health maintenance organizations (HMOs), managed care organizations (MCOs), preferred provider organizations (PPOs), pharmacy benefit managers (PBMs), and third party administrators (TPAs) acting on behalf of an HMO, MCO, PPO, and any and all other insurance related entities licensed by the Commissioner or doing business in Louisiana (collectively known as "health insurance issuers") and their insureds, policyholders, members, subscribers, enrollees and certificate holders.

COVID-19 has created a mass disruption to the normalcy previously enjoyed by Louisianans and is an immediate threat to the public health, safety, and welfare of Louisiana citizens. Moreover, the unique nature of the COVID-19 pandemic is such that acute care hospitals in heavily affected areas are increasingly being tasked with transferring patients to other area facilities to maximize beds and supplies available to treat COVID-19 patients. The State of Louisiana, through the Louisiana Department of Health, has adopted a public policy supporting the use of health care facilities not traditionally used in the delivery of general acute care to augment the inpatient capacity of acute care hospitals through the acceptance of inpatient transfers that may not otherwise be permissible. In order for this public policy to be implemented safely and effectively and to promote continued network adequacy, it is necessary for insurers to appropriately cover such post-transfer care. In order to respond to the emergency and to protect and safeguard the public health, safety, and welfare of the citizens of this state, it is necessary to issue Emergency Rule 41.

Title 41 INSURANCE

Part XI. Rules

Chapter 41. Emergency Rule 41—Medical Surge-Related Patient Transfers in Louisiana during the Outbreak of Coronavirus Disease (COVID-19)

§4101. Benefits, Entitlements, and Protections

A. The benefits, entitlements and protections of Emergency Rule 41 shall be applicable to insureds, policyholders, members, subscribers, enrollees and certificate holders who, as of 12:01 a.m. on March 12, 2020 have a policy, insurance contract or certificate of coverage issued by a health maintenance organization or for any of the types of insurance enumerated in La. R. S. 22:47(2)(a) and reside in the state of Louisiana. Insureds shall include, but not be limited to, any and all policyholders, members, subscribers, enrollees and certificate holders.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, and Proclamation No. JBE 2020-37.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4103. Applicability

A. Emergency Rule 41 shall apply to every health maintenance organization (HMO), managed care organization (MCO), preferred provider organization (PPO), pharmacy benefit manager (PBM), and third party administrator (TPA) acting on behalf of a health insurance issuer, HMO, MCO, PPO, and any and all other insurance related entities licensed by the Commissioner or doing business in Louisiana (collectively known as “health insurance issuers”).

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, and Proclamation No. JBE 2020-37.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4105. Definitions

A. For purposes of Emergency Rule 41, the following definitions shall apply.

Acute Care Hospital—any facility licensed by the Louisiana Department of Health as a hospital and that provides inpatient medical care and other related services for surgery, acute medical conditions and injury.

Step-Down Facility—any health care facility serving as the recipient of inpatient transfers for the purpose of reducing occupancy of or providing overflow capacity for an acute care hospital during the state of emergency.

Government-Sponsored Step-Down Facility—any facility serving as the recipient of inpatient transfers for the purpose of reducing occupancy of or providing overflow capacity for an acute care hospital during the state of emergency, where such services are funded through federal or state appropriation or a combination of both.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, and Proclamation No. JBE 2020-37.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4107. Limited Waiver

A. In any parish or municipality in which daily inpatient bed occupancy at any acute care hospital exceeds 85 percent, the provisions of R.S. 22:1019.2 requiring the maintenance of specialist and primary care provider-to-insured ratios and timely nonemergent access are hereby waived for any health insurance issuer complying with Emergency Rule 41.

B. Any health insurance issuer not complying with all provisions of this Rule in providing a health benefit plan shall not be subject to this waiver of R.S. 22:1019.2, shall be required to comply with the provider-to-insured ratios and timely nonemergent access requirements of R.S. 22:1019.2, and shall be subject to the commissioner’s reservation of right to invoke any appropriate authority to address any resulting endangerment of Louisiana residents.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, and Proclamation No. JBE 2020-37.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4109. Restriction on Authorization of Transfers

A. Health insurance issuers shall not impose prior authorization, utilization, medical necessity, or any related review on the transfer of patients from an acute care hospital to a step-down facility.

B. Health insurance issuers shall not engage in post-service reviews of transfers of patients from acute care hospitals to a step-down facility.

C. Nothing in this Section shall be interpreted to prevent a health insurance issuer from applying its existing utilization review policies to the underlying provision of care when otherwise permissible.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, and Proclamation No. JBE 2020-37.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4111. Coverage of Post-Transfer Inpatient Stay and Services

A. Health insurance issuers shall cover the remainder of the inpatient stay needed after the transfer from an acute care hospital to a step-down facility under terms and at a cost sharing rate no less favorable to the insured than those that would have applied had the insured remained at the acute care hospital.

B. Nothing in this section shall be interpreted to require payment of a particular reimbursement rate to the step-down facility for the remainder of the inpatient stay. The health insurance issuer shall reimburse the step-down facility as provided for by any existing agreement between the health insurance issuer and that step-down facility or through a negotiated rate.

C. Nothing in this section shall be interpreted to require reimbursement by a health insurance issuer to a government-sponsored step-down facility where such facility has been fully publicly funded to provide otherwise covered services.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, and Proclamation No. JBE 2020-37.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4113. Intent and Purpose

A. The provisions of Emergency Rule 41 shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum consumer protection for the insureds of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, and Proclamation No. JBE 2020-37.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4115. Sanctions for Violations

A. The commissioner retains the authority to enforce violations of Emergency Rule 41. Accordingly, any health insurance issuers enumerated in Emergency Rule 41 or other entity doing business in Louisiana and/or regulated by the commissioner who violates any provision of Emergency Rule 41 shall be subject to regulatory action by the

commissioner under any applicable provisions of the Louisiana Insurance Code

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, and Proclamation No. JBE 2020-37.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4117. Authority

A. The commissioner reserves the right to amend, modify, alter or rescind all or any portions of Emergency Rule 41. Additionally, the commissioner reserves the right to extend Emergency Rule 41.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, and Proclamation No. JBE 2020-37.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4119. Severability Clause

A. If any section or provision of Emergency Rule 41 is held invalid, such invalidity or determination shall not affect other sections or provisions, or the application of Emergency Rule 41, to any persons or circumstances that can be given effect without the invalid sections or provisions and the application to any person or circumstance shall be severable.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, and Proclamation No. JBE 2020-37.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4121. Effective Date

A. Emergency Rule 41 shall become effective at 12:01 a.m. on March 31, 2020 and shall continue in full force and effect until expiration on the earlier of 11:59 p.m. on May 12, 2020 or 11:59 p.m. on the date the governor lifts the state of emergency presently in effect, inclusive of any renewal thereof.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, and Proclamation No. JBE 2020-37.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

James J. Donelon
Commissioner

2004#025

DECLARATION OF EMERGENCY

Department of Insurance Office of the Commissioner

Emergency Rule 42—Tax Reporting During Outbreak of Coronavirus Disease (COVID-19) (LAC 37:XI.Chapter 42)

On January 31, 2020, the United States Department of Health and Human Services Secretary Alex A. Azar declared a public health emergency (PHE) for the United States to aid the nation's healthcare community in responding to the coronavirus disease (COVID-19). The United States Centers for Disease Control and Prevention (CDC) has declared

COVID-19 a worldwide pandemic due to its global effect. Furthermore, on March 13, 2020, President Donald Trump invoked the Stafford Act and declared a national emergency regarding the COVID-19 outbreak. COVID-19 has been detected in the state of Louisiana with a growing number of residents testing positive for the disease. COVID-19 has spread among the population by various means of exposure, therefore posing a significant risk of substantial harm to a large number of citizens.

The spread of COVID-19 has also created unique challenges for the insurance industry and insurance producers, adversely affecting their ability to make certain filings with the Department of Insurance, thereby placing them at risk of additional financial hardship in the form of regulatory sanctions. A delay in the promulgation of Emergency Rule 42 would have an adverse impact on the financial welfare of the affected persons, undermining their ability to maintain operations and weakening the availability of insurance, with an ultimate negative impact on the public welfare.

Emergency Rule 42 is issued under the authority of the Commissioner of insurance for the State of Louisiana, pursuant to the following: Proclamation No. JBE 2020-25 issued on March 11, 2020 by Governor John Bel Edwards declaring a State of Emergency extending from March 11, 2020 through April 9, 2020, unless terminated sooner; Proclamation No. JBE 2020-29 issued on March 14, 2020 transferring authority over certain insurance matters to Commissioner of Insurance James J. Donelon (Commissioner); Proclamation No. JBE 2020-33 issued on March 22, 2020 by Governor John Bel Edwards declaring a stay at home order and closure of nonessential businesses until April 13, 2020, unless terminated sooner; Proclamation No. JBE 2020-37 issued on March 26, 2020 by Governor John Bel Edwards transferring authority over certain insurance matters to Commissioner of Insurance James J. Donelon (Commissioner); and Proclamation No. JBE 2020-41 issued on April 2, 2020, extending the stay at home order and closure of nonessential businesses until April 30, 2020, unless terminated sooner.

Title 37

INSURANCE

Part XI. Rules

Chapter 42. Emergency Rule 42— Tax Reporting During Outbreak of Coronavirus Disease (COVID-19)

§4201. Purpose

A. The purpose of Emergency Rule 42 is to extend certain tax filing deadlines mandated under R.S. 22:439 and R.S. 22:845.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, 22:11, and 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46.

§4203. Applicability

A. Emergency Rule 42 shall apply to all insurers, surplus lines producers, and self-procurers, required to file either Form 1071, *Quarterly Tax Statement*, pursuant to R.S. 22:845 or Form 1265, *Surplus Lines Tax Report*, pursuant to R.S. 22:439.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, 22:11, and 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4205. Reporting of Insurers Quarterly Reports

A. The April 15, 2020, deadline to file Form 1071, *Quarterly Tax Statement*, and to remit the tax due shall be extended to July 15, 2020.

B. Insurers that qualify for the extension in subparagraph A of this section shall file the quarterly report and remit any tax due, on or before July 15, 2020.

C. Quarterly Reports originally due on April 15, 2020, received on or before July 15, 2020, shall be deemed timely and insurers qualifying for an extension under Emergency Rule 42 shall not be subject to penalties, fees, fines, suspensions, or revocation of their Louisiana certificate of authority.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, 22:11, and 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4207. Reporting of Surplus Lines Quarterly Reports

A. The June 1, 2020, deadline to file Form 1265, *Surplus Lines Tax Report*, and to remit the tax due shall be extended to July 15, 2020.

B. Persons who qualify for the extension in subsection A shall file the quarterly report and any tax due on or before July 15, 2020.

C. Quarterly Reports originally due on June 1, 2020, received on or before July 15, 2020, shall be deemed timely and surplus lines producers and self-procurers qualifying for an extension under Emergency Rule 42 shall not be subject to penalties, fees, fines, suspensions, or revocation of their surplus lines producer's license.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, 22:11, and 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4209. Authority

A. The Commissioner reserves the right to amend, modify, alter, extend, or rescind all or any portion of Emergency Rule 42.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, 22:11, and 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4211. Severability Clause

A. If any section or provision of Emergency Rule 42 is held invalid, such invalidity or determination shall not affect other sections or provisions, or the application of Emergency Rule 42, to any persons or circumstances that can be given effect without the invalid sections or provisions and the application to any person or circumstance shall be severable.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, 22:11, and 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

James J. Donelon
Commissioner

2004#032

DECLARATION OF EMERGENCY

**Department of Insurance
Office of the Commissioner**

Emergency Rule 42—Reporting during Outbreak of Coronavirus Disease (COVID-19) (LAC 37:XI.Chapter 42)

Emergency Rule 42 issued under the authority of the Commissioner of Insurance for the State of Louisiana on April 3, 2020, is hereby rescinded in accordance with the Administrative Procedures Act. Emergency Rule 42 issued in LAC 37, Part XI. Chapter 42 effective on April 3, 2020 is hereby null and void and shall have no effect as of April 3, 2020.

James J. Donelon
Commissioner

2004#033

DECLARATION OF EMERGENCY

**Department of Insurance
Office of the Commissioner**

Emergency Rule 43—Temporary Licensing of Adjusters (LAC 37:XI.Chapter 43)

On January 31, 2020, the United States Department of Health and Human Services Secretary Alex A. Azar declared a public health emergency (PHE) for the United States to aid the nation's healthcare community in responding to the coronavirus disease (COVID-19). The United States Centers for Disease Control and Prevention (CDC) has declared COVID-19 a worldwide pandemic due to its global effect. Furthermore, on March 13, 2020, President Donald Trump invoked the Stafford Act and declared a national emergency regarding the COVID-19 outbreak. COVID-19 has been detected in the state of Louisiana with a growing number of residents testing positive for the disease. There is reason to believe that COVID-19 may spread among the population by various means of exposure, therefore posing a significant risk of substantial harm to a large number of citizens.

Emergency Rule 43 is issued to address the mass disruption to the normalcy previously enjoyed by citizens of Louisiana as a result of the effects of COVID-19. Specifically, the stay at home orders inhibit the ability to sit for an insurance examination and submit fingerprints in association with adjuster license applications. As such, Emergency Rule 43 is issued under the authority of the Commissioner of Insurance for the State of Louisiana, pursuant to the following: Proclamation No. JBE 2020-25

issued on March 11, 2020, by Governor John Bel Edwards declaring a State of Emergency extending from March 11, 2020, through April 9, 2020, unless extended or terminated sooner and Proclamation No. JBE 2020-29 issued on March 14, 2020, transferring authority over certain insurance matters to Commissioner of Insurance James J. Donelon, Proclamation No. JBE 2020-37 issued on March 26, 2020 transferring authority over certain insurance matters to Commissioner of Insurance James J. Donelon. Additionally, Emergency Rule 43 is being issued following the issuance of Proclamation No. JBE 2020-33 issued on March 22, 2020 by Governor John Bel Edwards declaring a stay at home order and closure of nonessential businesses until April 13, 2020 unless extended or terminated sooner, and Proclamation No. JBE 2020-41 issued on April 2, 2020, extending the stay at home order and closure of nonessential businesses until April 30, 2020 unless terminated sooner.

COVID-19 has created a mass disruption to the normalcy previously enjoyed by Louisianans and is an immediate threat to the public health, safety, and welfare of Louisiana citizens. In order to respond to the emergency and to protect and safeguard the public, health, safety and welfare of the citizens of this state, it is necessary to issue Emergency Rule 43.

Title 37
INSURANCE

Part XI. Regulations

**Chapter 43. Emergency Rule 43—Temporary
Licensing of Adjusters**

§4301. Purpose

A. Emergency Rule 43 provides for the procedure to implement the protocol necessitated for the temporary licensing of adjuster applicants who have been negatively impacted by closure of insurance testing sites following issuance of Proclamation No. 33 JBE 2020, issued on March 22, 2020, by Governor John Bel Edwards declaring a stay at home order and closure of nonessential businesses until April 13, 2020 unless extended or terminated sooner, and Proclamation No. JBE 2020-41 issued on April 2, 2020, extending the stay at home order and closure of nonessential businesses until April 30, 2020 unless terminated sooner.

B. An additional purpose of this regulation is to set forth the duration of the temporary license issued hereunder, the eligibility for the license and the process of obtaining a permanent replacement adjuster license.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, and R.S. 22:11, and R.S. 22:1678.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4303. Applicability and Scope

A. Emergency Rule 43 shall apply to those individuals making application for an adjuster license

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, and R.S. 22:11, and R.S. 22:1678.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4305. Definitions

A. For the purposes of Emergency Rule 43 the following terms are defined as follows.

Adjuster—as defined in R.S. 1662 (1).

Applicant—a natural person who is seeking a license as an adjuster.

Commissioner—the Commissioner of Insurance for the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, and R.S. 22:11, and R.S. 22:1678.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4307. Temporary License Application

A. An individual may request issuance of a temporary adjuster license.

B. The individual shall submit an adjuster license application using the National Insurance Producer Registry (NIPR) website at nipr.com and pay the appropriate fee upon submission.

C. After receiving confirmation of the submission of the application using nipr.com, the applicant shall submit a written request for a temporary license to the Louisiana Department of Insurance by email to producerlicensing@ldi.la.gov. That written request must include the transaction number received from nipr.com upon submission of the application.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, and R.S. 22:11, and R.S. 22:1678.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4309. Condition of Issuance of Temporary License

A. An applicant for a temporary license pursuant to this Emergency Rule shall not have been convicted of a felony.

B. An applicant for a temporary license pursuant to this Emergency Rule shall not be licensed as a public adjuster.

C. A person issued a temporary license pursuant to this Emergency Rule shall be subject to R.S. 22:1674 and R.S. 22:1675.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, and R.S. 22:11, and R.S. 22:1678.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4311. Expiration of Temporary License

A. All temporary licenses issued pursuant to this Emergency Rule shall expire on May 15, 2020 unless the term is extended by order of the commissioner.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, and R.S. 22:11, and R.S. 22:1678.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4313. Conversion of Temporary License

A. Any temporary license issued pursuant to Emergency Rule 43 may be converted into a permanent license by completion of all prerequisites of a license for the line or lines of insurance including, but not limited to, passing the required examination and submission of fingerprints pursuant to the applicable statutes prior to expiration of the temporary license.

B. No additional fee shall be required in association with the issuance of a permanent license if the requirements are met before the expiration of the temporary license.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, and R.S. 22:11, and R.S. 22:1678.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4315. License Denial, Suspension or Revocation

A. The Commissioner may refuse to issue, suspend or revoke any temporary license issued pursuant to Emergency Rule 43 for any of the reasons set forth in R.S. 22:1672.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, and R.S. 22:11, and R.S. 22:1678.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4317. Effective Date

A. Emergency Rule 43 shall become effective at 12:01 a.m. on April 6, 2020 and shall continue in full force and effect until May 15, 2020, unless extended or terminated sooner.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, and R.S. 22:11, and R.S. 22:1678.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

§4319. Severability

A. If any section or provision of Emergency Rule 43 or its application to any person or circumstance is held invalid, such invalidity or determination shall not affect other sections or provisions or the application of Emergency Rule 43 to any persons or circumstances that can be given effect without the invalid section or provision or application, and for these purposes the sections and provisions of Emergency Rule 43 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, and R.S. 22:11, and R.S. 22:1678.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

DECLARATION OF EMERGENCY

**Department of Public Safety and Corrections
Office of the State Fire Marshal
Uniform Construction Code Council**

State Uniform Construction Code
(LAC 17:I.111)

The Department of Public Safety and Corrections, Office of State Fire Marshal, Louisiana State Uniform Construction Code Council, hereafter referred to as the “LSUCCC” or the “Council”, has exercised the emergency provision in accordance with R.S. 49:953(B) of the Administrative Procedure Act, to amend LAC 17:I.Chapter 1 in the state Uniform Construction Code as authorized by R.S.40:1730.28. Furthermore, the LSUCCC has found an immediate need to adopt amendments of the current State Uniform Construction Code, 2015 *International Plumbing Code*, Section 422.11, Handwashing Facilities. A letter from Dr. Jimmy Guidry, State Health Officer, Department of Health, was received by the LSUCCC requesting an amendment be adopted by the Council. This amendment will serve to better protect the public and to follow national guidelines from the Center for Disease Control (CDC).

In Dr. Guidry’s letter, he states the following: “In the absence of nationally mandated requirements or guidelines regarding handwashing facilities in medical office exam rooms, I’ve considered the minimum indications for handwashing and antisepsis, as accepted by the Center for Disease Control (CDC). The CDC recognizes hand hygiene in health-care settings, based on the recommendations of the Healthcare Infection Control Practices Advisory Council. It is my recommendation that the following language be added as an exception to the referred to section above as an Emergency Rule Amendment. This should only be acceptable in lieu of handwashing facilities alone, in a healthcare setting such as doctor’s offices and clinics where there is no reasonably anticipated exposure to blood or other potentially infectious materials (OPIM).”

The LSUCCC is promulgating this Emergency Rule to provide greater health and safety for the public and for those providing medical care to patients. This rule was first adopted and published in the January 20,2018 edition of the *Louisiana Register* (Vol. 44, No. 1). The rule became effective on February 1, 2018. This Emergency Rule is being promulgated to amend those provisions. It was favorably voted on by the LSUCCC on November 20, 2019. By the signature of the agency head, Chief H. “Butch” Browning, Jr., it was adopted and became effective on December 3, 2019. It was published in the December 2019 edition of the *Louisiana Register* (Vol. 45, No. 12). This Emergency Rule is being promulgated to continue the provisions of the December 2019 Emergency Rule and becomes effective April 2, 2020. It shall be in effect for the maximum period allowed under the Act (120 days) or until adoption of the final Rule, whichever occurs first. The public welfare dictates that these changes be implemented immediately through the adoption of the Emergency Rule to promote

greater access to safer hygiene practices and to insure safety to existing facilities undergoing renovations and for new proposed facilities.

Title 17
CONSTRUCTION
Part I. Uniform Construction Code
Chapter 1. Adoption of the Louisiana State Uniform Construction Code

§111. The International Plumbing Code (Formerly LAC 55:VI.301.A.5)

A. The *International Plumbing Code*, 2015 Edition. The appendices of that code may be adopted as needed, but the specific appendix or appendices shall be referenced by name or letter designation at the time of adoption (per R.S. 40:1730.28, eff. 1/1/16).

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Amend	Chapter 4	
* * *		
Adopt	Section 422.11, Handwashing Facilities.	Medical facilities, including doctor’s office and clinics, shall be provided with hand washing facilities within each patient examination and treatment room. The hand wash facility shall be provided with hot and cold water delivered via a mixing faucet.
Amend	Exception	1. In healthcare setting such as doctor's offices and clinics where there is no reasonably anticipated exposure to blood or other potentially infectious materials (OPIM), where hands are not expected to be visibly soiled and clinical situations described in items 1C-J (IA) (74,93,166,169,283,294,312,398) are followed, use of an alcohol-based hand rub for routinely decontaminating hands shall be allowed in lieu of handwashing facilities. The design professional shall provide documentation to the building official specifying the anticipated exposure.
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AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1) and Act 836 of the 2014 of the Regular Louisiana Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34:883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 36:2574 (November 2010), effective January 1, 2011, LR 37:601 (February 2011), LR 37:913 (March 2011), repromulgated LR 37:2187 (July 2011), repromulgated LR 37:2726 (September 2011), LR 37:3065 (October 2011), LR 38:1994 (August 2012), amended by the Department of Public Safety and Corrections, Uniform Construction Code Council, LR 39:1825 (July 2013), LR 39:2512 (September 2013), LR 40:2609 (December 2014), amended by the Department of Public Safety and Corrections, Office of State Fire Marshall, LR 41:2386 (November 2015), amended by the Department of Public Safety and Corrections, Office of State Fire Marshal, Uniform Construction Code Council, LR 42:1672(October 2016), LR 44:81 (January 2018), repromulgated LR 45:919 (July 2019), amended LR 46:

Chief H. “Butch” Browning, Jr.
 State Fire Marshal

2004#028

DECLARATION OF EMERGENCY

**Department of Revenue
 Office of Alcohol and Tobacco Control**

CBD Product Public Safety Regulations
 (LAC 55:VII.Chapter 6)

The Louisiana Department of Revenue, Office of Alcohol and Tobacco Control, pursuant to the emergency rulemaking authority granted by R.S. 49:953(B) of the Administrative Procedure Act (R.S. 49:950, et seq.) and the specific rule making authority granted by R.S. 3:1483, hereby adopts the following Emergency Rule for the protection of public health. The effective date of this Rule is upon signature.

The Louisiana Department of Revenue, Office of Alcohol and Tobacco Control, finds it necessary to make immediate changes to the Louisiana Administrative Code given the need for regulation of industrial hemp-derived CBD products for consumption and topical use as defined under the provisions of Act No. 164 of the 2019 Louisiana Legislature. The following regulations will give the ATC the ability to properly license and regulate the retail sale of industrial hemp-derived CBD products for consumption and

topical use, which will affect the health of Louisiana citizens and give the commissioner of the Office of Alcohol and Tobacco Control the ability to make critical decisions that protect human health. This rule creates §601 through §619 to address retail CBD licensure, permitting, and related matters since this is not addressed otherwise by existing law or regulation.

This Rule shall have the force and effect of law upon signature and will remain in effect 120 days, unless renewed by the commissioner of alcohol and tobacco control or until permanent rules are promulgated in accordance with law.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Chapter 6. CBD Product Public Safety Regulations

§601. Clarification on Scope

A. As used in this Chapter, the term “industrial hemp-derived product or hemp-derived product that contains CBD intended for consumption or topical use” does not include industrial hemp-derived products alone. The Office of Alcohol and Tobacco Control does not directly regulate industrial hemp-derived products that do not contain CBD.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 46:

§603. CBD Retail and Retail/Wholesale Permits

A.1. In this Chapter, a *CBD dealer* means any person, who as a business, sells, offers for sale, solicits orders for the sale of, or distributes any industrial hemp-derived product or hemp-derived product that contains CBD intended for consumption or topical to the general public or other sellers.

2. Each person or business who solicits, sells, or is about to engage in the business of selling any industrial hemp-derived product or hemp-derived product that contains CBD intended for consumption or topical use as defined in R.S. 3:1481(5) shall first apply for and obtain a CBD dealer permit for each physical place of business from the Office of Alcohol and Tobacco Control. Online retail sales of industrial hemp-derived CBD products intended for consumption or topical use shall be allowed with a CBD dealer permit and physical place of business within the state. Any industrial hemp-derived product or hemp seed incapable of germination that has been approved by the United States Food and Drug Administration and does not contain any amount of cannabidiol shall not fall under the regulations of this Chapter.

3. The commissioner of the Office of Alcohol and Tobacco Control shall have the authority to issue permanent and temporary CBD dealer permits which shall authorize the storage and retail and/or wholesale sale of industrial hemp-derived CBD products to take place at each physical place of business. CBD dealer permit holders may ship industrial hemp-derived CBD products via common carrier from a licensed physical location directly to a consumer and those who further designate their desire to also engage in wholesale sales shall also be allowed to deliver industrial hemp-derived CBD products using their own W-2 employees and vehicles to a licensed retailer or use a common carrier to deliver same to a licensed retailer.

a. Existing retail businesses that desire to have industrial hemp-derived CBD products on their premises for

sale to consumers shall have until September 1, 2019 to apply for a temporary CBD dealer permit with the Office of Alcohol and Tobacco Control.

b. Initial applications for CBD dealer permits received by the Office of Alcohol and Tobacco Control shall receive a temporary permit and have until March 1, 2020 to ensure that the industrial hemp-derived CBD products they are carrying have been registered by the manufacturer with the Louisiana Department of Health and until March 1, 2020 to ensure that the CBD products they are carrying have had their labels approved by the Louisiana Department of Health.

c. All industrial hemp-derived CBD products which are required to be registered with the Louisiana Department of Health and which have not been registered by a manufacturer with the Louisiana Department of Health by March 1, 2020 shall be removed from dealer premises. All industrial hemp-derived CBD products which are required to have their labels approved by the Louisiana Department of Health and which have not received label approval from the Louisiana Department of Health by March 31, 2020 shall be removed from dealer premises.

d. A temporary CBD dealer permit holder carrying only hemp-derived CBD products that have been properly registered by the manufacturer with the Louisiana Department of Health and have labels approved by the Louisiana Department of Health, may apply for a permanent CBD dealer permit with the Office of Alcohol and Tobacco Control.

e. Temporary CBD dealer permits that expire on March 31, 2020 can apply for a permanent CBD dealer permit. Temporary CBD dealer permit holders must show their vendor and/or manufacturer have registered with the Louisiana Department of Health. Permanent CBD dealer permit application fees shall be \$175. Temporary CBD dealer permit holders that cannot show proof of their vendor and/or manufacturer having registered with the Louisiana Department of Health can apply to have their temporary CBD dealer permit extended until July 31, 2020. Extension applications must include proof that their vendor and/or manufacturers have applied to be registered with the Louisiana Department of Health. Temporary CBD dealer permits will be extended at no cost.

4. The CBD dealer permit shall not authorize the permittee to sell or offer for sale any industrial hemp-derived CBD product that:

- a. is derived from any source that is not hemp;
- b. contains a tetrahydrocannabinol (THC) concentration of more than 0.3 percent on a dry weight basis;
- c. is intended for inhalation;
- d. is an alcoholic beverage containing CBD or hemp;
- e. is marketed as a dietary supplement, unless approved by the United States Food and Drug Administration;
- f. is a food product or beverage containing CBD or hemp, unless the United States Food and Drug Administration approves CBD and/or hemp as a food additive.
- g. contains a medical claim, unless approved by the United States Food and Drug Administration;

5. The CBD dealer permit shall only authorize the permittee to sell or offer for sale an industrial hemp-derived CBD products that is:

a. produced from hemp grown by a licensee authorized to grow hemp by the United States Department of Agriculture or under an approved state plan pursuant to the Agriculture Improvement Act of 2018, P.L. 115-334, or under an authorized state pilot program pursuant to the Agriculture Act of 2014, P.L. 113-79;

b. registered with the Louisiana Department of Health in accordance with the State Food, Drug, and Cosmetic Law (R.S. 40:601 et seq.); and

c. labeled in accordance with the State Food, Drug, and Cosmetic Law (R.S. 40:601 et seq.) and approved by the Louisiana Department of Health. The label shall have:

i. the following words printed clearly on its label: "This product has not been evaluated by the Food and Drug Administration and is not intended to diagnose, treat, cure, or prevent any disease", unless approved by the United States Food and Drug Administration; and

ii. a scannable bar code, QR code, or web address linked to a document or website that contains a certificate of analysis as required by R.S. 3:1482(D).

6. If the permit holder is a corporation or limited liability company, the permit holder shall notify the Office of Alcohol and Tobacco Control in its initial application and renewal applications of all officers, directors, managers, shareholders, members, or persons qualified to conduct or manage the business and same shall meet the qualification requirements of an applicant.

7. The CBD dealer permits shall be considered a privilege and is not transferrable, assignable, or heritable. The permit must be returned to the Office of Alcohol and Tobacco Control or surrendered to an agent of the commissioner within five days of permit closure, when the ownership of the business is transferred, or the business is terminated. When the ownership of the business is transferred, the new owner shall be allowed to continue to operate using the transferor's permit until a new permit is issued or denied, only if the new owner notifies the Office of Alcohol and Tobacco Control of the transfer within five days of the transfer and applies for a new CBD dealer permit within fifteen days of the transfer of ownership. If the permit holder is a corporation or limited liability company, the permit holder shall notify the Office of Alcohol and Tobacco Control of any changes in the officers, directors, managers, shareholders, members, or persons previously qualified to conduct or manage the business within 15 days of the date of such changes. The notification shall include the suitability documents and information for each new individual required to possess the qualifications of the applicants. However, in the event of the dissolution of a partnership by death, the surviving partner or partners may operate under the partnership permit.

8. Receivers and trustees in bankruptcy may operate under the permit of the person succeeded.

9. When the location of a place of business is proposed to be changed, the proposal shall be received and must be approved by the issuing authority before such action is taken. The change of location shall be noted on the permit by the issuing authority and the permit shall be invalid unless the notation is made.

10. The permit, in addition to any other permit required to be displayed, shall be posted in a conspicuous place on the licensed premises, so as to be easily seen and read by the public. No other signs or notices, except those required by state or federal law, shall be required to be displayed by the CBD dealer.

11. A partnership may include a surviving spouse not separate in community and that spouse may operate under the partnership permit for the remainder of the term.

12. A partnership, corporation, or any other authorized legal entity recognized under the laws of the state of Louisiana may include a spouse who has a regime of separation of property, pursuant to Civil Code Article 2370, and may include a spouse who owns the interest in the partnership, corporation, or other legal entity as that spouse's separate property, pursuant to Civil Code Article 2341, and that spouse may operate under the permit of the partnership, corporation, or other legal entity for the remainder of the term after final conviction of the other spouse for any felony that is not directly related to the CBD dealer permit.

13. The failure of a dealer to publicly display his permits, as required by Paragraph 5 above, shall be grounds for the withholding, suspension, or revocation of the CBD dealer permit.

B.1. The commissioner shall collect an initial and annual licensure permit fee in the amount of \$175 per year for CBD dealer permits.

2. Initially, the commissioner shall issue temporary CBD dealer permits that shall expire March 31, 2020.

3. The expiration of CBD dealer permits shall be on March 31 of each year and permit holders shall renew their permit prior to that date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 46:

§605. Submission of Applications

A. All applications for CBD dealer permits shall be mailed or delivered to the commissioner in Baton Rouge, Louisiana, unless additional methods are made available by the commissioner. All applications for local permits (if required) shall be mailed or delivered to the respective local authorities, unless additional methods are made available by the local governing authority. An applicant shall mail or deliver both her applications for state and local permits (if required) within 24 hours of each other. If she fails to do so, her state application may be withheld and the permits denied. Upon receipt of an application, the commissioner or the local authorities, as the case may be, shall stamp the day, month, and year received, and the commissioner may verify that the applicant does not owe the state or the political subdivision in which the business is located any delinquent sales taxes, penalties, or interest, excluding items under formal appeal pursuant to the applicable statutes. The commissioner and officers or employees specifically so authorized by the commissioner and local authorities may issue the permits immediately after proper investigation but, for a period of 35 days after issuance, such permits shall operate on a probationary basis subject to final action on or withholding of the permits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 46:

§607. Qualifications

A. Upon application for initial permit licensure or annual permit license renewal for a CBD dealer permit, the applicant may be required to submit to a criminal background check. The applicant may be required to submit fingerprints and other identifying information to the Agency along with an application to the Louisiana Bureau of Criminal Identification and Information, who shall forward results of the criminal background check to the Office of Alcohol and Tobacco Control. The costs of providing the criminal background check shall be assessed by the bureau, as specified in R.S. 15:587(B), and paid by the applicant. Information obtained from the criminal background check may be used by the Office of Alcohol and Tobacco Control to determine the applicant's eligibility for a CBD dealer permit and/or renewal pursuant to this Chapter.

B. No person shall be eligible to obtain or hold a permit if:

1. convicted of a felony crime under federal or state law as defined in R.S. 14:2(B) or drug related distribution within 10 years immediately preceding the date of application;

2. convicted of a felony not defined in Paragraph B.1, until two years after the completion of the final sentence.

C. Failure to meet or maintain qualifications is a ground for the denial, withholding, suspension, or revocation of a CBD dealer permit.

D. The applicant is responsible for any employee working under the applicant's license and CBD dealer permit holders shall maintain a record containing the name, date of hire, social security number, and date of employment termination for every employee.

E. Applicants for CBD dealer permits shall:

1. be a person of good character and reputation and over 18 years of age. In considering a person's good character or reputation, the commissioner may consider a person's arrests in determining suitability;

2. be a citizen of the United States and the state of Louisiana and a resident of the state of Louisiana continuously for a period of not less than two years next preceding the date of the filing of the application;

3. be the owner of the place of business or have a bona fide written lease therefor for the place of business wherein the storage and retail/wholesale sales of industrial hemp-derived CBD products intended for consumption or topical use shall take place;

4. have not had a license or permit to sell or deal in CBD or hemp, issued by the United States, any state, or by any political subdivision of a state authorized to issue permits or licenses, revoked within two years prior to the application;

5. have not been adjudged by the commissioner, or convicted by a court of violating any of the provisions of this Chapter. If the applicant has been so convicted, the granting of a permit or of a renewal shall be within the discretion of the commissioner;

6. not owe the state or the local governmental subdivisions in which the application is made any delinquent taxes, penalties, or interest, excluding items under formal appeal pursuant to applicable statutes;

7. not be the spouse of a person who does not meet the requirements of Paragraphs 1 and 4-6 of this Subsection; however, in such cases the age of the ineligible spouse shall be immaterial. For purposes of this Paragraph, the term "spouse" shall also include persons who are considered married outside of the United States, persons who ordinarily hold themselves out as husband and wife, or persons who file their state and federal income tax returns as either "married filing jointly" or "married filing separate".

F. If the applicant is a partnership recognized by Louisiana law, or anyone in such partnership with or financed by another, all members of such partnership, or all the persons furnishing the money shall also possess the qualifications required of an applicant. The application shall name all partners or financial backers and furnish their social security numbers and proper addresses. If a partner of a partnership applying for dealer permits is a corporation or limited liability company, the requirements as to citizenship and residence shall not apply to officers, directors, and stockholders of the corporation or members of the limited liability company. The corporation or limited liability company shall either be organized under the laws of the state of Louisiana or qualified to do business within the state of Louisiana.

G.1. If the applicant is a corporation or a limited liability company, all officers and directors and all stockholders or members owning in the aggregate more than five percent of the stock or of the membership interest in a limited liability company and the person or persons who shall conduct or manage the business shall possess the qualifications required of an applicant and shall furnish their federal identification number, their Louisiana Department of Revenue business account number, their social security number, and their correct home address. The requirements as to citizenship and residence do not apply to either the officers, directors, or stockholders of corporations, or the officers, managers, or members of limited liability companies. The corporation or limited liability company shall be either organized under the laws of the state of Louisiana or qualified to do business within the state of Louisiana.

2. Notwithstanding any other provisions of law to the contrary, the commissioner may accept from a publicly traded or other corporation or entity, the necessary documentation of those persons described in Subsection H of this Section and three officers of the corporation in full satisfaction of the requirements of this Section.

H. Notwithstanding the provisions of Subsection B, the commissioner may grant or continue a permit with respect to an applicant, even though the applicant's spouse has been convicted of a felony, if the applicant:

1. had state and local permits prior to the spouse's felony conviction; and

2.a. has a regime of separation of property, pursuant to Civil Code Article 2370, and is the owner of the premises or has a bona fide written lease therefor; or

b. owns the permitted premises as the applicant's separate property, pursuant to Civil Code Article 2341.

I. In order to determine suitability, members of a partnership recognized by Louisiana law, the officers and directors of a corporation, the stockholders of a corporation, and members of a limited liability company owning more than five percent of such a corporation or company may be

required to submit fingerprints and other identifying information to the agency along with an application to the Louisiana Bureau of Criminal Identification, who shall forward results of the criminal background check to the Office of Alcohol and Tobacco Control. The costs of providing the criminal background check shall be assessed by the bureau, as specified in R.S. 15:587(B), and paid by the applicant.

J. All licensees and persons required to be qualified pursuant to the provisions of this Chapter shall have a continuing duty to inform the commissioner of any action which they believe would constitute a violation of this Chapter. No person who so informs the commissioner shall be discriminated against by an applicant or licensee because of supplying such information.

K. All licensees and any other persons who have been found suitable in accordance with the provisions of this Section shall maintain suitability throughout the term of the license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 46:

§609. Misstatement or Suppression of Fact

A. Any misstatement or suppression of fact in an application for an initial permit, application for renewal of a permit, special event permit, or any accompanying affidavit to the Office of Alcohol and Tobacco Control is ground for the denial, withholding, suspension, or revocation of a permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 46:

§611. Inspection and Examination

A. The commissioner or her agent may inspect any place of business where industrial hemp-derived CBD products are stored, offered for retail sale, or offered for wholesale. She or her agent may examine, at all reasonable hours, the books, records, and other documents of all CBD dealer permit holders.

B. No person shall refuse to allow, on demand, the commissioner or her agent to make a full inspection of a place of business where industrial hemp-derived CBD products are stored, offered for retail sale, offered for wholesale sale, nor shall any person refuse to allow, on demand, the commissioner or her agent to examine and audit the books and records of any business where industrial hemp-derived CBD products are stored, offered for retail sale, offered for wholesale sale, nor shall any person in any way hinder or prevent such an inspection or audit.

C. Any refusal by a CBD dealer permit holder to allow the commissioner or her agent to inspect the permitted place of business or to examine and audit the books and records of the permitted business as provided within this Section is grounds for the suspension of a permit, in addition to other penalties provided in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 46:

§613. Prohibition on Sales to Minors

A. No person holding a CBD dealer permit and no servant, agent, or employee of the permittee shall sell any industrial hemp-derived CBD product to any person under the age of 18 years of age.

B. To ensure that no industrial hemp-derived CBD product is sold to a person under the age of 18 years of age, a CBD dealer permit holder and their servants, agents, and employees may require all persons attempting to purchase CBD products at retail to produce for inspection either:

1. a valid, current, Louisiana driver's license that contains a photograph of the person presenting the driver's license;

2. a valid, current, driver's license of another state that contains a photograph of the person and birth date of the person submitting the driver's license;

3. a valid, current, special identification card issued by the state of Louisiana pursuant to R.S. 40:1321 containing a photograph of the person submitting the identification card;

4. a valid, current, passport or visa issued by the federal government or another country or nation, that contains a permanently attached photograph of the person and the date of birth of the person submitting the passport or visa;

5. a valid, current, military or federal identification card issued by the federal government containing a photograph of the person and date of birth of the person submitting the identification card;

6. a valid, current, special identification card of another state which contains a photograph of the person and birth date of the person submitting the identification card;

7. any digitized identification approved by the commissioner may be accepted by CBD retailers and retail/wholesalers. CBD dealers may choose to accept digitized identification or they may still require a physical identification when checking identification. CBD dealers whom the agency has required to utilize scanners shall still be required to request and scan a physical identification and may not accept digitized identification. Digitized identification may be accepted by establishments provided that all employees have been properly trained prior to acceptance in accordance with the requirements of LAC 55:VII.401.D.

C. Each form of identification listed above must on its face establish the age of the person as 18 years or older, and there must be no reason to doubt the authenticity or correctness of the identification. No form of identification mentioned above shall be accepted as proof of age if it is expired, defaced, mutilated, or altered. If the state identification card or lawful identification submitted is a duplicate, the person shall submit additional information which contains the name, date of birth, and picture of the person. A duplicate driver's license shall be considered lawful identification for the purposes of this Paragraph, and a person shall not be required to submit additional information containing the name, date of birth, and picture of the person. In addition, an educational institution identification card, check cashing identification card, or employee identification card shall not be considered as lawful identification for the purposes of this Subsection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 46:

§615. Administrative Hearings and Penalties

A. Any person who violates any of the provisions of this Chapter or the provisions of R.S. 3:1483 or who alters, forges, or counterfeits, or uses without authority any permit, license, or other document provided for in this Chapter, who operates without a permit, or who fails to collect or to timely pay the assessments and fees due or assessed pursuant to this Chapter or R.S. 3:1483 shall be subject effective January 1, 2020, in addition to any unpaid assessments, late fees, or collection costs, to the following criminal penalties, wherein each day on which a violation occurs shall constitute a separate offense.

1. On a first conviction, the offender shall be fined not more than \$300.

2. On a second conviction, the offender shall be fined not more than \$1,000.

3. On a third or subsequent conviction, the offender shall be sentenced to imprisonment, with or without hard labor, for not more than two years and shall be fined not more than \$5,000.

B. In addition to the criminal penalties provided for by R.S. 3:1484 and above, any licensee who violates any of the provisions of this Chapter shall be subject to having her permit suspended or revoked.

C. The procedure for the suspension or revocation of permits shall be substantially as follows:

1. The commissioner shall have periodic examinations made of the business of all persons holding permits under this Chapter. If a violation of any provision of this Chapter or of the law is observed, the commissioner may give the permittee a written warning. If the permittee has been previously warned or if the violation is of a sufficiently serious nature, the commissioner may instruct any agent or employee of the commissioner to prepare and file, upon information and belief based upon the facts in hand, a petition for suspension or revocation of the permit, setting forth the facts and circumstances of the violation, and shall thereupon summon the permittee to appear and show cause why the permit should not be suspended or revoked.

2. The secretary of the Department of Revenue, municipal authorities, sheriffs, and other law enforcing officers may have periodic investigations made of the business of all permittees within their respective jurisdictions. If any violation of any provision of this Chapter or of any law is observed, such authorities may give the permittee a written warning. If the permittee has been previously warned or if the violation is of a sufficiently serious nature, they shall file an affidavit with the commissioner, setting forth the facts and circumstances of the violation. Thereupon, the commissioner shall summon the permittee to appear and show cause why his permit should not be suspended or revoked.

3. Any person may file with the commissioner or with the municipal officers or parish authorities a sworn petition requesting that a permit be suspended or revoked. If the petition is filed with the local authorities, they shall immediately transmit it to the commissioner. When such a petition is received by the commissioner, she shall summon

the permittee to appear and show cause why her permit should not be suspended or revoked.

4. No such petition shall be considered by the commissioner unless sworn to by the petitioner in an affidavit which also affirms that the petitioner, together with witnesses, if any, will appear at the hearing to establish the allegations of the petition, and unless the petition sets forth facts constituting a cause or causes enumerated in or authorized by this Chapter for the suspension or revocation of a permit.

5. If the agency finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

D. If a person holds more than one permit and any one of them is suspended or revoked, the commissioner may suspend or revoke all of his permits.

E. Conviction by a court of a violation of the provisions of this Chapter is not an automatic condition precedent to the refusal, suspension, or revocation of a permit under this Chapter for a violation of any of the provisions of this Chapter or the law. When there has been a previous criminal prosecution for the same or similar act upon which the refusal, suspension, or revocation of a permit is being considered, evidence of a conviction or an acquittal in a court of competent jurisdiction shall be admissible in a proceeding before the commissioner. The commissioner shall withhold, suspend, or revoke permits for violations of this Chapter, regardless of any prosecution in a court or of the result of any such prosecution.

F. When a permit is revoked for any legal cause, the commissioner may, at the same time, order that no state or local permit shall be issued covering the same premises until two years after the date of revocation.

G. Whenever the commissioner is to hold a hearing pursuant to the provisions of this Chapter, she shall issue a written summons or notice thereof to the applicant or permittee, directing her to show cause why her permit should not be suspended or revoked. The notice or summons shall state the time, place, and hour of the hearing, which shall be not less than ten nor more than 30 calendar days from the date of the notice. The notice or summons shall enumerate the cause or causes alleged for suspending or revoking the permit. All notices or summonses shall be either delivered to the applicant or permittee in person or sent by certified mail to the applicant or permittee and directed to him at the mailing address as given in his last application for the permit. When so addressed and mailed, notices or summonses shall be conclusively presumed to have been received by the applicant or permittee.

H. Hearings by the commissioner shall, in her discretion, be held either at the agency headquarters in Baton Rouge, the agencies New Orleans' office, in the parish in which the licensed premises in question is located, or at another location designated by the commissioner.

I. To the extent practicable, the commissioner may authorize the use of teleconference, video link, or other visual remote communications technology for the conducting of any hearing pursuant to the following requirements.

1. Prior to authorizing the use of teleconference, video link, or other visual remote communications technology for the conducting of any hearing, the commissioner shall provide the permittee with written notice of his intent to do so. The notice shall be sent by certified mail to the permittee at the address of his place of business as given in his application for the permit and shall be sent not less than ten nor more than thirty calendar days from the scheduled hearing date. When so addressed and mailed, the notice shall be conclusively presumed to have been received by the permittee.

2. Any party objecting to the commissioner's authorization of the use of teleconference, video link, or other visual remote communications technology to conduct all or any portion of any authorized hearing shall provide the commissioner with written notification of the objection at least five days prior to the scheduled hearing date. Upon receipt of any objection, the commissioner shall not allow the use of teleconference, video link, or other visual remote communications technology to conduct any portion of the hearing for which a proper objection was raised. Failure of a permittee to object in writing within at least five calendar days prior to the scheduled hearing date shall conclusively constitute a waiver of any objections.

3. Any use of teleconference, video link, or other visual remote communications technology for the conducting of any hearing shall be done in real-time.

J. Hearings may be held by the commissioner or by any person designated and authorized by the commissioner. If the hearing is to be held by a person designated by the commissioner, that person shall take an oath for the faithful performance of her duties. The oath may be administered by anyone qualified by law to administer oaths in this state. The commissioner, or the person designated to hold a hearing, may administer oaths, issue subpoenas for the attendance of witnesses and the production of books, papers, accounts, and documents, and examine witnesses and receive testimony at the hearing.

K. If a person fails to comply with a subpoena issued by the commissioner or by any duly authorized person holding the hearing or if a witness refuses to testify in any matter regarding which he may be lawfully interrogated, the person conducting the hearing shall adjudge him guilty of contempt and may fine him not more than \$100 or imprison him for not more than 30 days, or both. The sheriff of the parish in which the hearing is held shall execute the judgment of contempt.

L. If a permittee or applicant who has been notified of a hearing does not appear, the hearing may proceed without her and the commissioner may consider and dispose of the case, but in all cases the commissioner, upon application or ex propria motu, may grant continuances from time to time. If the continuance be granted to a fixed future date by written consent or in the presence of the permittee, applicant, or his counsel, no further notice of the hearing date need be given. In all other cases the same notice of hearing as in original hearings shall be given.

M. In determining cases involving the suspension or revocation of permits, if the commissioner finds that the violation is of a minor nature, or that there are extenuating circumstances, or that there are reasonable grounds to expect that the permittee will not again violate any of the provisions

of this Chapter, the commissioner may suspend the permit for such time as she thinks proper. If the permittee has previously been fined or had a permit suspended or revoked, or if the violation is flagrant or serious, the commissioner may revoke the permit or permits and shall immediately notify the state and local authorities of this action. When the commissioner either suspends or revokes a permit, all permits to deal in industrial hemp-derived CBD products as herein defined and all similar local permits are ipso facto suspended or revoked without action on the part of state or local governing authorities. The commissioner shall retain jurisdiction to re-open cases at any time upon petition or ex propria motu, and for good cause shown may modify, revise, or reverse her former findings and decisions, and all such re-opened cases shall be heard and determined under the same rules of procedure as original cases.

N. In hearings of the commissioner which finally result in withholding the issuance of a permit or in suspending or revoking a permit, the commissioner shall assess the costs of the hearing to the applicant or permittee. The costs are recoverable by the commissioner in any appellate proceeding instituted by the applicant or permittee or in any other judicial proceeding.

O. Decisions of the commissioner in withholding, suspending, or revoking permits and of local authorities in withholding permits are final and binding on all parties unless appealed in the manner provided in Section R below and finally reversed by the courts.

P. Any party aggrieved by a decision of the commissioner to withhold, suspend, or revoke a permit or of the local authorities to withhold a permit may, within ten days of the notification of the decision, take a devolutive appeal to the district court having jurisdiction of the applicant's or permittee's place of business, proposed or actual as the case may be. Such appeals shall be filed in the district courts in the same manner as original suits are instituted therein. The appeals shall be tried de novo. Either party may amend and supplement her pleadings and additional witnesses may be called and heard. When there has been a previous criminal prosecution for the same or similar act upon which the refusal, suspension, or revocation of a permit is being considered, evidence of a conviction or an acquittal in a court of competent jurisdiction is admissible in the trial of the appeal. Within 10 calendar days of the signing of the judgment by the district court in any such appeal case, the commissioner or the applicant for a permit or permittee, as the case may be, may devolutively appeal the judgment to the appellate court of proper jurisdiction. These appeals shall be perfected in the manner provided for in civil cases and shall be devolutive only. If the district court determines that the decision of the commissioner or of the local authorities in withholding, suspending, or revoking the permit was in error, the decision of the commissioner or local authorities shall not be voided if the commissioner or local authorities take an appeal to the court of appeals in the time provided for suspensive appeals.

Q. All proceedings in the district and appellate courts arising under this Part are civil in nature and shall be heard summarily by the court, without a jury, shall take precedence over other civil cases, and shall be tried in chambers or in open court, in or out of term.

R. The courts of this state shall have jurisdiction to issue restraining orders and writs of injunction restraining the commissioner as provided in the constitution, but no writ or order shall issue before a decision has been made by the commissioner either withholding the application for a permit, or suspending or revoking a permit under the provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 46:

§617. CBD Owner Training

A. CBD dealer permittees must complete the free ATC online CBD education training course within 30 days after receiving their CBD dealer permit. All individuals completing CBD education training shall receive a certificate of completion evidencing their training which shall be valid for two years. CBD dealer permittee employees who may be called upon to sell or serve industrial hemp-derived CBD products to consumers at retail may voluntarily complete the ATC online CBD education training. Individuals who maintain current valid non-expired certificate of CBD education training and the permittee they are employed by may receive a warning in lieu of penalties for a first offense violation of a CBD/hemp product sale to a minor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 46:

§619. CBD Special Event Permits

A. For purposes of this regulation, *special events* are defined as events, held at any location, where industrial hemp-derived CBD products are sold as an incidental part of the event for payment rendered or are supplied as part of a general admission or other type fee.

B. For such events, this office may issue a special temporary CBD special event permit to existing CBD dealer permit holders authorizing the sale of industrial hemp-derived CBD products that have been registered and had their labels approved by the Louisiana Department of Health at the special event for a maximum duration of three consecutive days only, but wholesalers may deliver products to the event up to two days prior to the effective date of the permit.

C. The commissioner shall collect special event licensure permit fee for each CBD special event permit in the amount of \$100.

D. No industrial hemp-derived CBD product intended for consumption or topical use shall be given away free of charge at a special event, even by a special event permit holder, unless authorized in writing by the Louisiana Office of Alcohol and Tobacco Control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 46:

§621. No Donations or Free CBD Products

A. No industrial hemp-derived CBD product shall be donated or given away free of charge outside the confines of a CBD dealer's permitted place of business, nor shall same be sold through a vending machine, unless authorized in

writing by the Louisiana Office of Alcohol and Tobacco Control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 46:

Juana Marine-Lombard
Commissioner

2004#005

DECLARATION OF EMERGENCY

Department of Revenue Office of Alcohol and Tobacco Control

Direct Delivery of Alcohol Public Safety Regulations (LAC 55:VII.Chapter 8)

The Louisiana Department of Revenue, Office of Alcohol and Tobacco Control, pursuant to the emergency rulemaking authority granted by R.S. 49:953(B) of the Administrative Procedure Act (R.S. 49:950, et seq.) and the specific rule making authority granted by R.S. 26:153(D), R.S. 26:307(E), R.S. 26:271.2(2)(b), R.S. 26:271.4, and 26:309(I), hereby adopts the following Emergency Rule for the protection of public health. The effective date of this Rule is upon signature.

The Louisiana Department of Revenue, Office of Alcohol and Tobacco Control, finds it necessary to make immediate changes to the Louisiana Administrative Code given the need for regulation of the direct delivery of alcohol. The following regulations will give the ATC the ability to properly license and regulate the direct delivery of alcohol, which will affect the health of Louisiana citizens and give the commissioner of the Office of Alcohol and Tobacco Control the ability to make critical decisions that protect human health. This rule creates §801 through §807 to address direct delivery matters not otherwise addressed by existing law or regulation and to resolve differences where the provisions of Act 433 and Act 436 of the 2019 Regular Session either overlap or conflict.

This Rule shall have the force and effect of law upon signature and will remain in effect 120 days, unless renewed by the commissioner of alcohol and tobacco control or until permanent rules are promulgated in accordance with law.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Chapter 8. Direct Delivery of Alcohol Public Safety Regulations

§801. General Direct Delivery Requirements

A. Prior to any alcohol retailer or third party alcohol delivery service engaging in the delivery of alcoholic beverages, same shall obtain an alcoholic beverage delivery permit from the commissioner of the Office of Alcohol and Tobacco Control and shall adhere to the following requirements.

1. Only alcoholic beverages intended for personal consumption and delivered in a manufacturer sealed container may be offered for delivery. *Manufacturer sealed container* as used in this Chapter shall mean the original

sealed container that is filled with the alcoholic beverage at the permitted facility by the manufacturer as defined in R.S. 26:2(12) and 241(10). The delivery of an *open alcoholic beverage container* as defined by R.S. 32:300 is prohibited.

2. Delivery shall be permitted only in those areas where the sale of alcoholic beverages are permitted. Delivery shall be prohibited in any area where it has been prohibited by a referendum vote or the local governing authority.

3. Delivery by a retailer shall not extend past the boundaries of the parish where the retailer's permitted establishment is located and shall be made only to a residential or commercial address. Third Party Alcohol Delivery Service permittees shall be allowed to deliver within 10 miles from the place of purchase, irrespective of parish boundaries.

4. Orders for alcohol delivery of any type may only be accepted and processed if the permitted premises receiving the order has actual physical possession of the alcoholic beverage being ordered on the physical premises at the time the order is accepted and can fulfill the order from stock on-hand.

5. The alcoholic beverages of all deliveries which are refused by a third party or incapable of being delivered for any reason shall be returned to the place of purchase.

6. Alcohol beverage delivery permit holders must verify that a consumer placing an order for alcohol delivery is of legal drinking age.

7. Alcoholic beverages shall not be delivered:

a. to an address on the campus of any elementary school, secondary school, university, college, technical college, or institute;

b. to any public playground or building used primarily as a church, synagogue, mosque, or public library.

c. outside of the hours that the retailers physical premises is open to the public;

d. without verifying that the recipient is not visibly intoxicated;

e. without obtaining the signature of the recipient verifying receipt of the delivery of alcohol and their age.

8. Alcoholic beverage delivery permit holders shall keep and retain a record of all deliveries of alcoholic beverages for a period three years from the date of delivery and shall make such records available to the commissioner of the Office of Alcohol and Tobacco Control, and her agents and assigns, upon request. The record of each delivery shall include:

a. the retail dealers name, address, and permit number;

b. the name of the person who placed the order and the date, time, and method of order;

c. the name of the employee making the delivery and the date, time, and address of the delivery;

d. the type, brand, and quantity of each alcoholic beverage delivered; and

e. the name, date of birth, and signature of the person that received the delivery.

9. Parishes and municipalities may require and issue local direct delivery of alcohol permits similar to those issued by the commissioner of the Office of Alcohol and Tobacco Control.

10. All persons delivering alcoholic beverages under an alcoholic beverage delivery permit shall be 18 years of age or older, be the permittee or a W-2 employee of the delivery permit holder, and possess a valid server permit as provided in R.S. 26:931 et seq.

11. Persons delivering alcoholic beverages under an alcoholic beverage delivery permit shall refuse delivery and return the alcoholic beverages to the place of purchase if:

a. the recipient does not produce a valid and current form of identification as identified in Subparagraph 7.e of this Subsection;

b. there is reason to doubt the authenticity or correctness of the recipient's identification;

c. the recipient refuses to sign for the receipt of the delivery; or

d. the recipient is intoxicated.

12. If an alcohol retailer's alcohol permit is revoked, suspended, or lapsed, then that retailer's alcoholic beverage delivery permit shall also be considered to be revoked, suspended, or lapsed and delivery of alcoholic beverages shall immediately cease.

13. They shall maintain a commercial general liability insurance policy with a minimum coverage amount of \$1,000 for the duration of the alcoholic beverage delivery permit and they shall provide proof of coverage to the commissioner of the Office of Alcohol and Tobacco Control upon request.

14. They shall require all delivery drivers to maintain vehicle general liability insurance on any and all vehicles they may use for deliveries as required by state law for the duration of the alcoholic beverage delivery permit and they shall provide proof of coverage to the commissioner of the Office of Alcohol and Tobacco Control upon request.

15. Class B and Class AR retailers who engage the services of a third party alcohol delivery service to deliver alcohol for them, must notify the commissioner of the Office of Alcohol and Tobacco Control in writing within 10 days of executing or terminating an agreement with a third party alcohol delivery service to deliver alcohol by providing her with a copy of the agreement and/or termination notice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 46:

§803. Package Store Retail Alcohol Delivery Permit

A. Retailers holding a valid class B retail liquor permit, retailers holding a valid class C retail liquor permit, and retailers holding a valid retail liquor permit that allows for off-premises consumption shall be allowed to apply for, obtain, and maintain a class P retail alcohol delivery permit pursuant to this particular regulation (§803) and they shall adhere to the following requirements in addition to the general requirements otherwise enumerated in this Chapter:

1. the commissioner of Alcohol and Tobacco shall collect an initial and annual licensure fee for class P retail alcohol delivery permits in the amount of \$250 and no cents and same shall expire and be renewable at the same time as the holder's alcohol permit;

2. each and every order for the delivery of alcoholic beverages received by a class P retail alcohol delivery permit holder shall include food with each order;

3. all alcohol delivery transactions initiated by a consumer shall be processed, assembled, packaged, and

fulfilled at the retailer's permitted physical premises wherein the order was received by the permittee or a W-2 employee of the permittee;

4. deliveries to consumers shall only be made by the permittee or a W-2 employee of the retailer;

5. alcoholic beverages shall not be delivered without verifying the identity and age of the recipient by reading a valid state-issued photo identification card, valid military identification card, valid passport of the person, or through the use of a real-time electronic age verification device or application that shall be approved by the commissioner of the Office of Alcohol and Tobacco Control; and

6. notwithstanding any law, rule, or regulation to the contrary, the permittee may use electronic means to market, receive, and process orders for alcohol products;

7. the permittee may market, receive, and process orders for alcohol products using electronic means owned, operated, and maintained by a third party, provided that:

a. the permittee maintains ultimate control and responsibility over the sales transaction, the transfer of the physical possession of the alcoholic beverages, and the collection and remittance of all applicable state and local taxes;

b. the permittee retains the sole discretion to determine whether to accept and complete an order or reject it and the permittee, or a W-2 employee of the permittee, reviews and accepts or rejects each order;

c. the permittee retains the independence to determine which alcoholic beverages are made available through electronic means and which alcoholic beverages are made available for delivery to the consumer either at their licensed physical premises itself or at another address designated by the consumer;

d. the permittee independently sets the price of alcoholic beverages being offered for delivery;

e. any credit or debit card information provided by a consumer to the third party for the purpose of transacting a purchase is automatically directed to the permittee such that the transaction takes place between the consumer and the permittee and the permittee appears as the retail dealer at the time of purchase and on the receipt;

f. the permittee, or a W-2 employee of the permittee, processes at the physical premises that accepted the order all payments initiated by a consumer and assembles, packages, and fulfills each order at the same physical premises;

g. deliveries to consumers shall be made by the permittee or a W-2 employee of the permittee;

h. the relationship between the permittee and the third party shall be one of independent contractors and neither party shall be deemed the employee, agent, or joint venture of the other party under any circumstances or for any purposes;

i. the third party shall not deal, handle, sell, offer for sale, or possess for sale alcoholic beverages or process payments for the sale of alcoholic beverages.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 46:

§805. Restaurant Retail Alcohol Delivery Permit

A. Retailers holding a class AR retail liquor permit shall be allowed to apply for and obtain a class R retail alcohol

delivery permit pursuant to this particular regulation (§805) and they shall adhere to the following requirements in addition to the general requirements otherwise enumerated in this Chapter.

1. The commissioner of the Office of Alcohol and Tobacco Control shall collect an initial and annual licensure fee for class R retail alcohol delivery permits in the amount of \$250 and no cents and same shall expire and be renewable at the same time as the holder's alcohol permit.

2. Only beer, wine, and sparkling wine alcoholic beverages may be offered for delivery, no alcohol shall be delivered more than ten miles from the place of purchase, no alcoholic beverages shall be offered for curbside pickup, and each and every order for the delivery of alcoholic beverages shall be composed of at least a 30 percent food as computed from total cost paid. Alcohol and food purchased from a class AR retailer for delivery shall be included in its gross average monthly sales figures for purposes ensuring that an AR retailer meets its 60 percent food or food items requirement under R.S. 26:73(H). However, pursuant to R.S. 26:73(B)(2), sparkling or still wine delivered by the bottle in conjunction with food shall not be considered an alcoholic beverage when determining gross revenue for purposes of R.S. 26:73(H).

3. All alcohol delivery transactions initiated by a consumer shall be processed, assembled, packaged, and fulfilled at the retailer's permitted physical premises wherein the order was received by the permittee or a W-2 employee of the permittee.

4. Deliveries to consumers shall only be made by the permittee or a W-2 employee of the retailer.

5. At the time of delivery of alcoholic beverages, the permittee shall obtain the recipient's signature and verify the age of the recipient through the use of an electronic age verification device or combination of devices that shall be approved by the commissioner of the Office of Alcohol and Tobacco Control. Such devices shall be capable of all of the following:

a. verifying proof of age through technology of a magnetic card reader or an alternative technology capable of verifying proof of age;

b. reading a valid state-issued driver's license, a valid state-issued identification card, a valid military identification card, or a valid passport;

c. storing the recipient's name, age, date of birth, the expiration date of the identification, and the date and time that the identification was scanned.

6. Notwithstanding any law, rule, or regulation to the contrary, the permittee may use electronic means to market, receive, and process orders for alcohol products.

7. The permittee may market, receive, and process orders for alcohol products using electronic means owned, operated, and maintained by a third party, provided that:

a. the permittee maintains ultimate control and responsibility over the sales transaction, the transfer of the physical possession of the alcoholic beverages, and the collection and remittance of all applicable state and local taxes;

b. the permittee retains the sole discretion to determine whether to accept and complete an order or reject it and the permittee, or a W-2 employee of the permittee, shall review and accept or reject each order;

c. the permittee retains the independence to determine which alcoholic beverages are made available through electronic means and which alcoholic beverages are made available for delivery to the consumer at the licensed physical premises itself or at another address designated by the consumer;

d. the permittee independently sets the price of alcoholic beverages being offered for delivery;

e. any credit or debit card information provided by a consumer to the third party for the purpose of transacting a purchase is automatically directed to the permittee such that the transaction takes place between the consumer and the permittee and the permittee appears as the retail dealer at the time of purchase and on the receipt;

f. the permittee, or a W-2 employee of the permittee, processes at the physical premises that accepted the order, all payments initiated by a consumer and assembles, packages, and fulfills each order at the same physical premises;

g. deliveries to consumers shall be made by the permittee or a W-2 employee of the permittee;

h. the relationship between the permittee and the third party shall be one of independent contractors and neither party shall be deemed the employee, agent, or joint venture of the other party under any circumstances or for any purposes; and

i. the third party shall not deal, handle, sell, offer for sale, or possess for sale alcoholic beverages or process payments for the sale of alcoholic beverages.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 46:

§807. Third Party Alcohol Delivery Service Permit

A. Third party alcohol delivery service companies desiring to deliver alcohol to consumers in connection with a delivery agreement with a retail dealer possessing valid class AR or B retail permits shall first apply for and obtain a class T third party alcohol delivery service permit pursuant to this particular regulation (§807) and they shall adhere to the following requirements in addition to the general requirements otherwise enumerated in this Chapter.

1. The commissioner of Alcohol and Tobacco Control shall collect an initial and annual licensure fee for third party alcohol delivery service permits in the amount of \$1500 and same shall expire and be renewable annually from date of first issuance.

2. They may enter into third party alcoholic beverage service delivery agreements with retail dealers possessing valid class AR or B retail permits with the Office of Alcohol and Tobacco Control that provide for the use by the retailer of an internet or mobile application or similar technology platform to facilitate the sale of alcoholic beverages for delivery to consumers for personal consumption and the third party alcohol delivery service permittee may deliver the alcoholic beverages so facilitated to the consumer.

3. Only beer, wine, and sparkling wine alcoholic beverages provided by the retail dealer may be offered for delivery, no alcohol shall be delivered more than ten miles from the place of purchase, and each and every order for the delivery of alcoholic beverages shall be composed of at least 30 percent food as computed from total

cost paid for each class AR retailer order and each class B retailer order shall contain food. Alcohol and food purchased from a class AR retailer for delivery shall be included in its gross average monthly sales figures for purposes ensuring that an AR retailer meets its 60 percent food or food items requirement under R.S. 26:73(H). However, pursuant to R.S. 26:73(B)(2), sparkling or still wine delivered by the bottle in conjunction with food shall not be considered an alcoholic beverage when determining gross revenue for purposes of R.S. 26:73(H).

4. They shall be licensed to do business in the state of Louisiana, use their own W-2 employees for delivery, be able to monitor the routes of their employees during deliveries, and conduct an interview and background check of all employees that will deliver alcoholic beverages.

5. They shall maintain a general liability insurance policy with a liquor liability endorsement in an amount no less than \$1,000,000 per occurrence for the duration of every agreement they maintain with a retail dealer and they shall provide proof of coverage to every retail dealer with whom they have an agreement and notice to the retail dealer and the commissioner of the Office of Alcohol and Tobacco Control if the coverage lapses or is cancelled.

6. The retail dealer shall manage and control the sale of alcoholic beverages and shall accept or reject all orders placed for alcoholic beverages through the third party delivery service permittee's internet or mobile application or similar technology, collect and remit all applicable state and local taxes, determine the alcoholic beverages offered for sale through the third party delivery service permittee's internet or mobile application or similar technology, and determine the price at which alcoholic beverages are offered for sale or sold through the third party delivery service permittee's internet or mobile application or similar technology.

7. The third party alcohol delivery service permittee may charge retailer dealers a reasonable delivery fee for the orders delivered by the third party and may act as an agent for the retail dealer in the collection of payments from the sale of alcoholic beverages, but the full amount of each order must be handled in a manner that gives the retail dealer control over the ultimate receipt of the payment from the consumer.

8. The third party alcohol delivery service permittee may receive orders and accept payment via the internet or through a mobile application or similar technology.

9. At the time of delivery of alcoholic beverages, the third party alcohol delivery service permittee shall obtain the recipient's signature and verify the age of the recipient through the use of an electronic age verification device or combination of devices that shall be approved by the commissioner of Alcohol and Tobacco Control. Such devices shall be capable of all of the following:

a. verifying proof of age through technology of a magnetic card reader or an alternative technology capable of verifying proof of age;

b. reading a valid state-issued driver's license, a valid state-issued identification card, a valid military identification card, or a valid passport;

c. storing the recipient's name, age, date of birth, the expiration date of the identification, and the date and time that the identification was scanned.

10. A third party alcohol delivery service permittee who delivers alcoholic beverages, but fails to comply with the provisions of Paragraph I immediately above or §801.K and any other applicable rules contained in this Chapter, shall be vicariously liable for damages incurred as a result of the failure to comply.

11. Third party alcohol delivery service permittees must maintain and provide the commissioner of the Office of Alcohol and Tobacco Control with a list of retailers they have entered into agreements with within 60 days of receiving their permit and at each renewal. An up-to-date version of the retailer list shall be made available upon demand by the commissioner or her agents and assigns.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control LR 46:

Interested persons may submit written comments to Commissioner Juana Marine-Lombard, Office of Alcohol and Tobacco Control, P.O. Box 66404, Baton Rouge, LA 70896 or at legal.department@atc.la.gov.

Juana Marine-Lombard
Commissioner

2004#004

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2020 Commercial Large Coastal Shark Season Adjustment

Louisiana's commercial fishery for large coastal sharks (great hammerhead, scalloped hammerhead, smooth hammerhead, nurse shark, blacktip shark, bull shark, lemon shark, sandbar shark, silky shark, spinner shark, and tiger shark) opened on January 1, 2020. NOAA Fisheries has informed the secretary that the aggregated large coastal (nurse shark, bull shark, lemon shark, sandbar shark, silky shark, spinner shark, and tiger shark) quota and the hammerhead (great hammerhead, scalloped hammerhead, and smooth hammerhead) quotas are being projected to exceed 80 percent which is the trigger for a closure. The blacktip shark quota remains under 80 percent and the commercial fishery for blacktip sharks will be the only species in the large coastal sharks group that remains open to commercial harvest.

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency rules to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary by the commission in LAC 76:VII.357.M.2. to modify large coastal shark seasons if notified by NOAA Fisheries of such an adjustment, the secretary hereby declares:

Effective 11:30 p.m., March 14, 2020, the commercial season for the harvest of species in the aggregated large coastal sharks group (nurse shark, bull shark, lemon shark, sandbar shark, silky shark, spinner shark, and tiger shark)

and the hammerhead group (smooth hammerhead, scalloped hammerhead, and great hammerhead) shall close and will remain closed until January 1, 2021, at which time the season is scheduled to reopen. This closure will not pertain to persons holding a Federal Shark Research Permit issued by NOAA Fisheries Service, when those persons are legally fishing under the regulations promulgated for that permit including that a NMFS-approved observer is aboard the vessel. Nothing herein shall preclude the legal harvest of any Large Coastal Sharks by legally licensed recreational fishermen during the open season for recreational harvest. Effective with this closure, no person shall commercially harvest, possess, purchase, exchange, barter, trade, sell or attempt to purchase, exchange, barter, trade or sell large coastal sharks within the aggregated large coastal or hammerhead groups (nurse shark, bull shark, lemon shark, sandbar shark, silky shark, spinner shark, and tiger shark, smooth hammerhead, scalloped hammerhead, and great hammerhead) whether taken from within or without Louisiana waters, except for a Federal Shark Research Permit holder, when legally operating under that Permit. Also effective with the closure, no person shall possess sharks from the aggregated large coastal and hammerhead groups in excess of a daily bag limit whether taken from within or without Louisiana waters, which may only be in possession during the open recreational season. Nothing shall prohibit the possession or sale of fish legally taken prior to the closure, or from Federal Shark Research Permit holders, provided that all commercial dealers possessing the aggregated large coastal and hammerhead groups taken legally prior to the closure shall maintain appropriate records in accordance with R.S. 56:306.5 and R.S. 56:306.6. Nothing shall prohibit the commercial harvest of blacktip sharks during this closure, the commercial season for which remains open until further notice.

Jack Montoucet
Secretary

2004#002

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2020 Private Recreational Red Snapper Season

In February 2020, NOAA Fisheries announced the implementation of a program delegating management authority to the individual Gulf states, including Louisiana, over fishing of red snapper by private recreational anglers in the federal waters of the Exclusive Economic Zone (EEZ) during state seasons set by the Wildlife and Fisheries Commission. Given this authority to establish management measures applicable to private anglers in gulf federal waters who are landing red snapper in Louisiana, private recreational fishing for red snapper in the EEZ shall open concurrent with state seasons.

In order to allow time for the Wildlife and Fisheries Commission to set the 2020 season for the recreational harvest of red snapper under the provisions of state-delegated management authority in both state and federal

waters, the regularly scheduled recreational red snapper season as published in LAC 76:VII.335, must be delayed.

In accordance with the emergency provisions of R.S. 49:953, which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use emergency rules to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in LAC 76:VII.335.G.5. to modify opening and closing dates of the recreational red snapper season, the secretary hereby declares:

The season for the recreational harvest of red snapper in Louisiana state waters, scheduled to open on April 4, 2020 (LAC 76:VII.335), shall be delayed until further notice.

This closure also prohibits the possession and/or landing of red snapper in state waters, except for federally permitted charter boats or commercial individual fishing quota holders operating under federal law.

Jack Montoucet
Secretary

2004#013

DECLARATION OF EMERGENCY

**Department of Wildlife and Fisheries
Wildlife and Fisheries Commission**

**Pearl River Wildlife Management Area
Turkey Season Closure**

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under authority of R.S. 56:6.1, the secretary of the Department of Wildlife and Fisheries hereby adopts the following Emergency Rule:

Due to excessive high water levels associated with excessive rainfall along with backwater flooding, Pearl River Wildlife Management Area is inundated with floodwater. Wild turkeys on the area are confined to a small percentage of high ground that is not inundated, creating conditions for excessive harvest levels beyond what may occur under normal conditions. Continued hunting poses a potential risk of overharvest of the turkey resource, eliminates fair chase, and may pose a safety risk to the hunting public because of the concomitant concentration of hunters in areas where turkeys are abnormally concentrated. Additionally, numerous abnormal flood events for the last several years have adversely impacted populations. Therefore, it is deemed necessary to close turkey season on this wildlife management area.

In accordance with the provisions of R.S. 56:6.1, public access to and use of Pearl River Wildlife Management Area shall be as follows: closed to turkey hunting. This Declaration of Emergency shall become effective March 16, 2020, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act or until rescinded by the secretary.

Jack Montoucet
Secretary

2004#007

DECLARATION OF EMERGENCY

**Workforce Commission
Office of Workers' Compensation Administration**

Patient Protections and Related Health Care Services
Regarding Prescription Refills (LAC 40:I.Chapter 27 and 29)

On January 31, 2020, the United States Department of Health and Human Services Secretary Alex A. Azar declared a public health emergency (PHE) for the United States to aid the nation's healthcare community in responding to the coronavirus disease (COVID-19). The United States Centers for Disease Control and Prevention (CDC) has declared COVID-19 a worldwide pandemic due to its global effect. Furthermore, on March 13, 2020, President Donald Trump invoked the Stafford Act and declared a national emergency regarding the COVID-19 outbreak. COVID-19 has been detected in the state of Louisiana with a growing number of residents testing positive for the disease. There is reason to believe that COVID-19 may spread among the population by various means of exposure, therefore posing a significant risk of substantial harm to a large number of citizens.

Emergency Rule is issued to address the statewide public health emergency declared to exist in the state of Louisiana as the result of the imminent threat posed to Louisiana citizens by COVID-19, creating emergency conditions threatening the lives and health of the citizens of this state. Emergency Rule is issued under the authority of the Assistant Secretary of the Office of Workers' Compensation Administration for the State of Louisiana, pursuant to the following: Proclamation No. JBE 2020-25 issued on March 11, 2020, by Governor John Bel Edwards declaring a State of Emergency extending from March 11, 2020, through April 9, 2020, unless terminated sooner and R.S. 23:1203.1.

Accordingly, Emergency Rule shall apply to any and all other workers' compensation insurance related entities licensed by the commissioner or doing business in Louisiana (collectively known as "workers' compensation insurers") and their insureds, policyholders, members, subscribers, enrollees and certificate holders.

COVID-19 has created a mass disruption to the normalcy previously enjoyed by Louisianans and is an immediate threat to the public health, safety, and welfare of Louisiana citizens. In order to respond to the emergency and to protect and safeguard the public, health, safety and welfare of the citizens of this state, it is necessary to issue Emergency Rule.

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Subpart 2. Medical Guidelines

Chapter 27. Utilization Review Procedures

§2715. Medical Treatment Schedule Authorization and Dispute Resolution

A.- B.3. ...

C. Minimum Information for Request of Authorization
1. - 3.b. ...

4. The 1010 form approval may last longer than 30 days, especially if a treatment facility is closed because of COVID-19.

D. - O. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Department of Employment and Training, Office of Workers' Compensation, LR 17:263 (March 1991), repromulgated LR 17:653 (July 1991), repromulgated LR 18:257 (March 1992), amended by the Louisiana Workforce Commission, Office of Workers' Compensation, LR 38:1030 (April 2012), repromulgated LR 38:1287 (May 2012), amended LR 38:3255 (December 2012), LR 40:1163 (June 2014), amended by the Louisiana Workforce Commission, Office of Workers' Compensation, LR 46:

Chapter 29. Pharmacy Reimbursement Schedule, Billing Instruction and Maintenance Procedures

Editor's Note: Other Sections applying to this Chapter can be found in Chapter 51.

§2901. Applicability

A. Emergency Rule shall apply to any and all Workers' Compensation insurance related entities licensed by the Department of Insurance, those defined as *carrier* in LAC 40:I.103, or doing business in Louisiana (collectively known as "workers' compensation insurers").

B. The Assistant Secretary or the Secretary reserves the right to amend, modify, alter or rescind all or any portions of Emergency Rule.

C. If any section or provision of Emergency Rule is held invalid, such invalidity or determination shall not affect other sections or provisions, or the application of Emergency Rule, to any persons or circumstances that can be given effect without the invalid sections or provisions and the application to any person or circumstance shall be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers' Compensation, LR 46:

§2902. Effective Date

A. Emergency Rule shall become effective at 12:01 a.m. on March 19, 2020 and shall continue in full force and effect until 12:01 a.m. on April 13, 2020, unless extended by the Assistant Secretary of the Office of Workers' Compensation Administration or the Secretary of the Louisiana Workforce Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers' Compensation, LR 46:

§2903. Prescription Drug Coverage

A. Workers' compensation insurers shall allow insured individuals to obtain refills of their prescriptions even if the prescription was recently filled, consistent with approval from patients' health care providers and/or pharmacists. This provision does not apply to prescription drugs with a high likelihood of abuse, such as opioids that are restricted to 7-day prescriptions.

B. This authorization shall be for at least 30-day and up to 90-day supply, consistent with approval from patients' health care providers and/or pharmacists.

C. Mail order prescriptions should be mailed to an alternate address if requested by the insured.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers' Compensation, LR 46:

§2904. Prior Authorizations or Restrictions

A. All workers' compensation insurers shall waive time restrictions on prescription medication refills, which include suspension of electronic "refill too soon" edits to pharmacies, to enable insureds or subscribers to refill prescriptions in advance, if there are authorized refills remaining.

B. All workers' compensation insurers shall authorize payment to pharmacies for at least a 30-day supply of any prescription medication, regardless of the date upon which the prescription had most recently been filled by a pharmacist, at any time when the state is declared to be under a state of emergency in an executive order issued by the Governor and:

1. the prescription is not for a Schedule II medicinal drug;
2. the medication is essential to the maintenance of life or to the continuation of therapy in a chronic condition;
3. in the pharmacist's professional judgment, the interruption of therapy might reasonably produce undesirable health consequences or may cause physical or mental discomfort; or
4. the dispensing pharmacist notifies the prescriber of emergency dispensing within a reasonable time after such dispensing.

C. Pharmacist may refill most medications, one time, with a 30-day supply, even though the pharmacist cannot reach the patient's physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1203.1.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Workers' Compensation, LR 46:

Inquiries concerning the proposed enactment may be sent to Assistant Secretary Sheral Kellar, OWC-Administration, 1001 North 23rd Street, Baton Rouge, LA 70802.

Ava Dejoie
Secretary

2004#011

DECLARATION OF EMERGENCY

**Workforce Commission
Office of Workers' Compensation Administration**

Telemedicine/Telehealth Codes
(LAC 40:I.5125 and 5157)

On January 31, 2020, the United States Department of Health and Human Services Secretary Alex A. Azar declared a public health emergency (PHE) for the United States to aid the nation's healthcare community in responding to the coronavirus disease (COVID-19). The United States Centers for Disease Control and Prevention (CDC) has declared

COVID-19 a worldwide pandemic due to its global effect. Furthermore, on March 13, 2020, President Donald Trump invoked the Stafford Act and declared a national emergency regarding the COVID-19 outbreak. COVID-19 has been detected in the state of Louisiana with a growing number of residents testing positive for the disease. There is reason to believe that COVID-19 may spread among the population by various means of exposure, therefore posing a significant risk of substantial harm to a large number of citizens.

The aim of this Emergency Rule is to temporarily add additional codes for the purpose of delivering care and allowing providers to use telemedicine/telehealth methods. The Emergency Rule addresses the statewide public health emergency declared to exist in the state of Louisiana as the result of the imminent threat posed to Louisiana citizens by COVID-19, creating emergency conditions threatening the lives and health of the citizens of this state. Emergency Rule is issued under the authority of the Assistant Secretary of the Office of Workers' Compensation Administration for the State of Louisiana, pursuant to the following: Proclamation No. JBE 2020-41 issued on April 2, 2020, by Governor John Bel Edwards declaring a State of Emergency extending from March 11, 2020, through April 30, 2020, unless terminated sooner and R.S. 23:1203.1.

Accordingly, this Emergency Rule shall apply to any and all other workers' compensation insurance related entities defined as "carrier" in LAC 40:I.103 or licensed by the commissioner or doing business in Louisiana (collectively known as "workers' compensation insurers") and their insureds, policyholders, members, subscribers, enrollees and certificate holders. This Declaration of Emergency is effective April 3, 2020 and shall remain in effect for the maximum time period allowed under the Administrative Procedure Act or for the period of the Governor's Stay-at Home Order, whichever shall end first.

COVID-19 has created a mass disruption to the normalcy previously enjoyed by Louisianans and is an immediate threat to the public health, safety, and welfare of Louisiana citizens. In order to respond to the emergency and to protect and safeguard the public, health, safety and welfare of the citizens of this state, it is necessary to issue this Emergency Rule.

Title 40

LABOR AND EMPLOYMENT

Part I. Workers' Compensation Administration

Subpart 2. Medical Guidelines

Chapter 51. Medical Reimbursement Schedule

Editor's Note: The following Sections of this Chapter are applicable and shall be used for the Chapters in this Part governing reimbursement. These specific Chapters are: Chapter 25, Hospital Reimbursement; Chapter 29, Pharmacy; Chapter 31, Vision Care Services; Chapter 33, Hearing Aid Equipment and Services; Chapter 35, Nursing/Attendant Care and Home Health Services; Chapter 37, Home and Vehicle Modification; Chapter 39, Medical Transportation; Chapter 41, Durable Medical Equipment and Supplies; Chapter 43, Prosthetic and Orthopedic Equipment; Chapter 45, Respiratory Services; Chapter 47, Miscellaneous Claimant Expenses; Chapter 49, Vocational Rehabilitation Consultant; Chapter 51, Medical Reimbursement Schedule; and Chapter 53, Dental Care Services.

§5125. Special Instructions

A. Procedure Codes Not Listed in Rules

1. - 3. ...

B. Modifiers

1. Modifier codes must be used by providers to identify procedures or services that are modified due to specific circumstances.

2. Modifiers listed in the CPT must be added to the procedure code when the service or procedure has been altered from the basic procedure described by the descriptor.

3. When Modifier-22 is used to report an unusual service, a report explaining the medical necessity of the situation must be submitted with the claim to the carrier. It is not appropriate to use Modifier-22 for routine billing.

4. The use of modifiers does not imply or guarantee that a provider will receive reimbursement as billed. Reimbursement for modified services or procedures must be based on documentation of medical necessity and must be determined on a case by case basis.

5. The modifier 95 appended to a code indicates it was performed by telemedicine/telehealth methods. Services should be reimbursed the same amount as the exact same codes without the modifier as long as the Emergency Rule exist.

C. - F. 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:54 (January 1993), repromulgated LR 19:212 (February 1993), amended LR 20:1299 (November 1994). amended by the Louisiana Workforce Commission, Office of Workers' Compensation, LR 46:

§5157. Maximum Reimbursement Allowances

A. Table 1

B. Table 2

CPT Code	Mod	Description	Global Days	Maximum Allowance	Non-Facility Maximum	Facility Maximum

90791		Psychiatric Diagnostic Evaluation		BR		
90792		Psychiatric Diagnostic Eval W/Medical Services		BR		

90832		Psychotherapy W/Patient 30 Minutes		BR		
90833		Psychotherapy W/Patient W/E and M Srvcs 30 Min		BR		
90834		Psychotherapy W/Patient 45 Minutes		BR		
90836		Psychotherapy W/Patient W/E and M		BR		

CPT Code	Mod	Description	Global Days	Maximum Allowance	Non-Facility Maximum	Facility Maximum
		Srvcs 45 Min				
90837		Psychotherapy W/Patient 60 Minutes		BR		
90838		Psychotherapy W/Patient W/E and M Srvcs 60 Min		BR		

90863		Pharmacologic Management W/Psychotherapy		BR		

92521		Evaluation Of Speech Fluency (Stutter Clutter)		BR		
92522		Evaluation Of Speech Sound Production Articulate		BR		
92523		Eval Speech Sound Product Language Comprehension		BR		
92524		Behavioral & Qualit Analysis Voice And Resonance		BR		

96105		Assessment Aphasia W/Interp and Report Per Hour		BR		

96156		Health Behavior Assessment/Re-Assessment		BR		
96158		Health Behavior Ivntj Indiv F2f 1st 30 Min		BR		
96159		Health Behavior Ivntj Indiv F2f Ea Addl 15 Min		BR		

97129		Ther Ivntj Cog Funcj Cntct 1st 15 Minutes		BR		
97130		Ther Ivntj Cog Funcj Cntct Ea Addl 15 Minutes		BR		

97161		Physical Therapy Evaluation Low Complex 20 Mins		BR		
97162		Physical Therapy Evaluation Mod Complex 30 Mins		BR		
97163		Physical Therapy Evaluation High Complex 45 Mins		BR		
97164		Physical Therapy Re-Eval Est Plan Care 20 Mins		BR		
97165		Occupational Therapy Eval Low Complex 30 Mins		BR		
97166		Occupational Therapy Eval Mod Complex 45 Mins		BR		
97167		Occupational Therapy Eval High Complex 60 Mins		BR		
97168		Occupational Ther Re-Eval Est Plan Care 30 Mins		BR		

99495		Transitional Care Manage Srvc 14 Day Discharge		BR		
99496		Transitional Care Manage Srvc 7 Day Discharge		BR		

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1034.2.

HISTORICAL NOTE: Promulgated by the Department of Labor, Office of Workers' Compensation, LR 19:54 (January 1993), repromulgated LR 19:212 (February 1993), amended LR 20:1299 (November 1994), LR 27:314 (March 2001), amended by the Workforce Commission, Office of Workers' Compensation, LR 39:1854 (July 2013), LR 40:379 (February 2014), amended by the Workforce Commission, Office of Workers' Compensation Administration, LR 42:1696 (October 2016). amended by the Louisiana Workforce Commission, Office of Workers' Compensation, LR 46:

Inquiries concerning the proposed enactment may be sent to Assistant Secretary Sheral Kellar, OWC-Administration, 1001 North 23rd Street, Baton Rouge, LA 70802 or at MedicalServices@lwc.la.gov

Ava Dejoie
Secretary

2004#030

DECLARATION OF EMERGENCY

Workforce Commission Office of Unemployment Insurance Administration

Employer Requirement to Provide Notification of the Availability of Unemployment Insurance Benefits to Each Employee at the Time of Separation (LAC 40:IV.381)

The Louisiana Workforce Commission (LWC) is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., to promulgate a Rule to address posting of information concerning the availability of unemployment insurance benefits to employees at the time of separation.

On January 31, 2020, the United States Department of Health and Human Services Secretary Alex A. Azar declared a public health emergency (PHE) for the United States to aid the nation's healthcare community in responding to the coronavirus disease (COVID-19). The United States Centers for Disease Control and Prevention (CDC) has declared COVID-19 a worldwide pandemic due to its global effect. Furthermore, on March 13, 2020, President Donald Trump invoked the Stafford Act and declared a national emergency regarding the COVID-19 outbreak. COVID-19 has been detected in the state of Louisiana with a growing number of residents testing positive for the disease. There is reason to believe that COVID-19 may spread among the population by various means of exposure, therefore posing a significant risk of substantial harm to a large number of citizens.

This Emergency Rule is necessary to provide employers with guidance about posting information concerning the availability of unemployment compensation at the time of separation. A delay in promulgating this Rule would have an adverse impact on the LWC's eligibility for funding under the Families First Coronavirus Response Act, Public Law (Pub. L.) 116-127, specifically Division D, the Emergency Unemployment Insurance Stabilization and Access Act of 2020. It is imperative that the LWC proceed expeditiously with this Rule because of the precarious position of the immense number of recently unemployed workers due to COVID-19, which is an imminent peril to public health, safety, and welfare that requires immediate action to provide benefits. Failure to adopt this Rule on an emergency basis may delay the receipt of unemployment benefits for those affected by COVID-19, and will result in the LWC failing to receive federal funding, which could imperil the unemployment insurance trust fund.

This declaration of emergency is effective April 8, 2020, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act, R.S. 49:953 (B)(1) et seq., or until adoption of the final Rule, whichever occurs first.

COVID-19 has created a mass disruption to the normalcy previously enjoyed by Louisianans and is an immediate threat to the public health, safety, and welfare of Louisiana citizens. In order to respond to the emergency and to protect and safeguard the public, health, safety and welfare of the

citizens of this state, it is necessary to issue this Emergency Rule.

Title 40

LABOR AND EMPLOYMENT

Part IV. Employment Security

Chapter 3. Employment Security Law

§381. Employer Requirement to Provide Notification of the Availability of Unemployment Insurance Benefits to Each Individual Employee at the Time of Separation

A. Pursuant to R.S. 23:1621, employers are required to provide notification of the availability of Unemployment Insurance Benefits (UI). This Rule prescribes an additional requirement that employers shall notify each individual employee about UI at the time of separation from employment of the following:

1. Employees that meet the requirements for unemployment insurance eligibility may file a UI claim in the first week that employment stops or work hours are reduced.

2. Employees shall be informed that a UI claim may be filed by phone or online stating:

a. To file a UI claim by phone call: 1-866-783-5567.

b. To file a UI claim online, visit: www.louisianaworks.net/hire.

c. If you have questions about the status of your UI claim, you can call the LWC at 866-783-5567 or visit www.louisianaworks.net/hire.

3. Employees shall be given the Louisiana Workforce Commission's toll free phone number and web address for filing and assistance with unemployment insurance claims.

4. Employees shall be informed of the need to provide the Louisiana Workforce Commission with the following information in order for the claim to be processed:

a. full legal name;

b. social security number; and

c. authorization to work (if not a U.S. Citizen or resident).

B. Employers can find a form containing this required information at www.laworks.net/downloads.

C. Employers shall convey this information at the time of separation or within 24 hours thereafter. This information shall be provided to employees in writing either via flyer, letter, email, or text message.

AUTHORITY NOTE: Promulgated in accordance with R.S. 23:1591, R.S. 23:1472(19)(a)(iii), R.S. 23:1621, and R.S. 36:310.

HISTORICAL NOTE: Promulgated by the Louisiana Workforce Commission, Office of Unemployment Insurance Administration, LR 46:

Inquiries concerning the proposed enactment may be sent to Assistant Secretary Robert Wooley, UI-Administration, 1001 North 23rd Street, Baton Rouge, LA 70802 or at Rwooley@lwc.la.gov.

Ava M. Dejoie
Secretary

2004#057

Rules

RULE

Board of Elementary and Secondary Education

Bulletin 140—Louisiana Early Childhood Care and Education Network
Academic Approval; Accountability; and Coordinated Enrollment
(LAC 28:CLXVII.Chapter 9)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education has amended LAC 28:CLXVII, *Bulletin 140—Louisiana Early Childhood Care and Education Network*. Louisiana Revised Statute 17:407.30 establishes the Louisiana Early Childhood Education Fund as a special treasury fund administered by the Board of Elementary and Secondary Education (BESE). The statute provides that the fund shall be credited with appropriations, as well as public and private grants or donations, and will be awarded to local entities for early childhood care and education. The revisions to *Bulletin 140—Louisiana Early Childhood Care and Education Network*, align BESE policy with R.S. 17:407.30. This Rule is hereby adopted on the date of promulgation.

Title 28

EDUCATION

Part CLXVII. Bulletin 140—Louisiana Early Childhood Care and Education Network

Chapter 9. Louisiana Early Childhood Education Fund

§901. Purpose, Scope, and Effect

A. The purpose of this Chapter is to set forth the rules and regulations necessary to implement the provisions of R.S. 17:407.30, which creates the Louisiana early childhood education fund (the “fund”) for the purpose of funding certain early childhood education programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.30 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:555 (April 2020).

§903. Eligibility Requirements

A. Subject to legislative appropriation, monies in the fund will be awarded annually to local entities approved by the board.

B. Fund awards are reserved for projects that expand the number of early childhood care and education quality seats for families eligible for the Child Care Assistance Program (CCAP) in type III early learning centers with a performance rating of “proficient” or above and at least one classroom with children age 15 months or younger.

C. Entities eligible to receive fund awards include, but are not limited to, BESE-approved local community networks and early learning centers.

D. Each applicant seeking an award must establish eligibility criteria for the early childhood care and education quality seats financed by local funds that serve as the match for the award. At a minimum, eligibility criteria established by each applicant must contain the following assurances:

1. that only those children whose family income makes them *economically disadvantaged*, as defined in Title 28, Part I, Chapter 11 of the *Louisiana Administrative Code*, shall be eligible for the early childhood care and education quality seats outlined in the applicant’s proposal; and

2. that at least 70 percent of any funding awarded to the applicant will be used to directly fund additional early childhood care and education seats in type III early learning centers with a performance rating of “proficient” or above and at least one classroom with children age 15 months or younger;

3. remaining awarded funding will be used to:

a. expand seats through improved quality; and

b. pay for audit costs required per §909 of this

Chapter.

E. Funding is intended to supplement existing funding sources and not to be used to supplant existing state or federal funds.

F. Prior to the start of the 2022-2023 school year, the Early Childhood Care and Education Advisory Council shall review this Chapter and, as necessary, recommend revisions to BESE based on learnings from the first two years of the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.30 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:555 (April 2020).

§905. Application Process

A. Local entities must submit an application to be considered for the allocation of these funds.

1. The application must define local needs using current data and define objective criteria through which the seats will be awarded.

B. Local entities seeking funding for qualifying projects must secure non-state and non-federal matching funds at a rate of at least one-to-one prior to the awarding of monies from the fund.

1. Eligible sources of a match for funds include locally-generated funds, including donations from private entities and allocations from local governmental entities.

2. School readiness tax credits will not be considered an eligible source of match for purposes of receiving funding pursuant to this Chapter.

C. The application submitted by the local entity must be accompanied by appropriate documentation as identified by the department to substantiate the existence of the match funding. Supporting documentation may include but is not limited to, letter(s) of donation from the donor to the local entity demonstrating the intent to donate a specified amount of funding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.30 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:555 (April 2020).

§907. Award Process

A. A rubric will be used to identify award recipients, and the following criteria will be considered when recommending award recipients for approval to BESE:

1. Ready Start network status;
2. child care assistance program waitlist for the local entity's community network;
3. child poverty rates in the local entity's community network;
4. child care needs in terms of the economic development needs of the parish where the center is located; and
5. the extent to which the proposal increases the availability of high quality learning center seats statewide.

B. All applicants whose submission are selected to receive a funding award must submit documentation to the department to substantiate the existence and possession of the match funds including, but not limited to:

1. copy of check(s) received totaling the required match plus receipt for bank deposit into local entity's bank account;
2. copy of bank statement which lists the deposit for the required match; or
3. copy of bank statement with balance totaling greater than the required match.

C. The total of all awards in any given year may not exceed the amount legislatively appropriated to the fund.

D. If a balance remains in the fund after every qualifying project under §903.B of this Chapter has been funded, then the board may consider awarding funds for the exclusive use of type III early learning centers to provide quality care for children who are ages birth through two and whose parents are eligible for the Child Care Assistance Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.30 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:556 (April 2020).

§909. Audit of Awards

A. A participating local entity must submit to the department an independent limited scope audit conducted by a certified public accountant who has been approved by the legislative auditor. Audit procedures will be developed by the department and will be limited in scope to those records necessary to substantiate that the funding received was utilized in accordance with program requirements and the approved application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.30 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:556 (April 2020).

Shan N. Davis
Executive Director

2004#054

RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Curriculum and Instruction
TOPS University Diploma (LAC 28: CXV.2318 and 2319)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education has amended LAC 28: CXV, *Bulletin 741—Louisiana Handbook for School Administrators*. These amendments incorporate courses into policy for high school graduation requirements. Additionally, courses required for the TOPS university diploma and the career diploma are aligned with corresponding Cambridge courses. This Rule is hereby adopted on the date of promulgation.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

Subchapter A. Standards and Curricula

§2318. The TOPS University Diploma

A. - C.2.j. ...

3. For incoming freshmen in 2014-2015 and beyond who are completing the TOPS university diploma, the minimum course requirements will be the following:

a. - b.iv.(t). ...

c. science—four units:

i. - iii.(c).(iii). ...

(iv). principles of engineering (LSU partnership);

(d). - (g).(iv). ...

(v). Repealed.

(h). - (h).(iv). ...

(v). physics II: Cambridge AICE—AS (honors);

C.3.c.iii.(i).(vi). - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:24.4, 17:183.2, and 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 36:1486 (July 2010), LR 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193 (November 2011), LR 38:754, 761 (March 2012), LR 38:1001 (April 2012), LR 38:1584 (July 2012), LR 40:994 (May 2014), LR 40:1328 (July 2014), LR 40:1679 (September 2014), LR 40:2525 (December 2014), LR 41:915 (May 2015), LR 41:1482 (August 2015), LR 41:2126 (October 2015), LR 42:232 (February 2016), LR 42:1062 (July 2016), LR 42:1878 (November 2016), LR 42:2176 (December 2016), LR 43:1287 (July 2017), LR 43:2132 (November 2017), LR 43:2483 (December 2017), LR 44:263 (February 2018), LR 44:1868 (October 2018), repromulgated LR 44:1998 (November 2018), LR 46:556 (April 2020).

§2319. The Career Diploma

A. - C.1.h. ...

2. The minimum course requirements for a career diploma for incoming freshmen in 2014-2015 and beyond shall be the following:

a. English—4 units:

i. - iii.(h). ...

(i). literature in English part 2: Cambridge AICE—AS (honors); or

a.iii.(j). - c.ii.(e). ...

(f). principles of engineering;

(g). any AP or IB science course PLTW principles of engineering;

(h). principles of engineering (LSU partnership);

(i). any AP or IB science course;

(j). physics I: Cambridge IGCSE;

(k). biology II: Cambridge AICE—AS (honors);

(l). chemistry II: AICE—AS (honors); or

(m). physics II: Cambridge AICE—AS (honors);

2.d. - 4....

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:24.4, 17:183.2, 17:183.3, 17:274, 17:274.1, and 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 35:1230 (July 2009), LR 35:1876 (September 2009), LR 35:2321 (November 2009), LR 35:2750 (December 2009), LR 36:1490 (July 2010), LR 37:548 (February 2011), LR 37:1130 (April 2011), LR 37:2130 (July 2011), LR 37:3197 (November 2011), LR 38:761 (March 2012), LR 38:1005 (April 2012), LR 40:2522 (December 2014), LR 41:1482 (August 2015), LR 41:2594 (December 2015), LR 42:232 (February 2016), LR 43:1287 (July 2017), LR 43:2132 (November 2017), LR 43:2484 (December 2017), LR 44:1868 (October 2018), LR 46:557 (April 2020).

Shan N. Davis
Executive Director

2004#055

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel
Certifications and Endorsements
(LAC 28:CXXXI.203)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education has amended LAC 28:CXXXI, *Bulletin 746—Louisiana Standards for State Certification of School Personnel*. Revisions provide the

required passing score for the Louisiana Leadership Assessment Series. This Rule is hereby adopted on the date of promulgation.

Title 28

EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 2. Initial Teacher Certification

Subchapter B. Testing Required for Certification Areas

§203. Certification Exams and Scores

(Formerly §243)

A. - D. ...

E. Administrative and Instructional Support Areas

Certification Area	Name of Test	Area Test Score

Content Leader	Louisiana Content Leader Assessment Series	5
Educational Leader—Level 1 (only one of the listed assessments in this certification area)	School Leaders Licensure Assessment (1011 or 6011)	166 (Effective until 7/31/20)
	School Leaders Licensure Assessment (6990)	151 (Effective 9/1/19)
	Louisiana Leadership Assessment Series	"Demonstrated" (for at least 9 assessments within this series)
Educational Leader—Level 3	School Superintendent Assessment (6021)	160 (Effective until 7/31/20)
	School Superintendent Assessment (6991)	162 (Current-)

All PRAXIS scores used for certification must be sent directly from ETS to the state Department of Education electronically, or the original PRAXIS score report from ETS must be submitted with the candidate's application. The mentor teacher certificate may be earned by passing one of the cohort-specific Louisiana mentor teacher assessment series tests.		

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1833 (October 2006), amended LR 36:485 and 488 (March 2010), LR 36:2265 (October 2010), LR 37:551 (February 2011), repromulgated LR 37:556 (February 2011), amended LR 37:3210 (November 2011), LR 39:1461 (June 2013), LR 40:277 (February 2014), LR 40:1680 (September 2014), LR 41:645 (April 2015), LR 41:916 (May 2015), LR 42:233 (February 2016), LR 43:1292 (July 2017), LR 44:264 (February 2018), LR 44:1999 (November 2018), LR 45:228, 230 (February 2019), repromulgated LR 45:403 (March 2019), amended LR 45:1458 (October 2019), LR 46:557 (April 2020).

Shan N. Davis
Executive Director

2004#056

RULE

Department of Environmental Quality Office of the Secretary

Legal Affairs and Criminal Investigations Division

Regulatory Permit for Stationary Combustion Turbines (LAC 33:III.327)(AQ385)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the air regulations, LAC 33:III.327. (AQ385).

This Rule establishes a regulatory permit which can be used to authorize the construction and operation of certain stationary combustion turbines. Authorization to construct and operate a stationary combustion turbine eligible for coverage under the regulatory permit shall become effective only upon notification by the department that the application required by the regulatory permit has been determined complete.

R.S. 30:2054(B)(9)(a) allows the Louisiana Department of Environmental Quality to develop regulatory permits for certain sources of air emissions provided the conditions in R.S. 30:2054(B)(9)(b) are satisfied. A regulatory permit is a permit that is incorporated into the regulations in the form of a Rule.

Pursuant to R.S. 30:2054(B)(9)(b)(viii), all regulatory permits shall be promulgated in accordance with the procedures provided in R.S. 30:2019, promulgation of rules and regulations (i.e., the Administrative Procedure Act, R.S. 49:950 et seq.). The basis and rationale for this Rule are to establish a regulatory permit for stationary and combustion turbines. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule is hereby adopted on the day of promulgation.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 3. Regulatory Permits

§327. Regulatory Permit for Stationary Combustion Turbines

A. Applicability

1. This regulatory permit authorizes the construction and use of stationary combustion turbines, subject to the requirements established herein, upon notification by the department that the application (i.e., notification form) submitted in accordance with Subsection H of this Section has been determined to be complete.

2. This regulatory permit shall not apply to stationary combustion turbines that:

a. combust fuels other than natural gas, refinery gas, or distillate oil with more than 15 parts per million sulfur; or

b. are subject to federal regulations not identified in Subsection D of this Section.

3. This regulatory permit shall not be used to authorize a stationary combustion turbine that, when considering potential emissions from it and potential

emissions from the remainder of the stationary source, would result in the creation of a major source of criteria pollutants, hazardous air pollutants, or toxic air pollutants.

B. Definitions

Stationary Combustion Turbine—as defined in 40 CFR 60.4420.

C. Emission Limitations

1. Emission limitations for the stationary combustion turbines shall be established by the application (i.e., notification form) submitted in accordance with Subsection H of this Section.

a. The limitations shall be enforceable by the department.

b. If actual emissions exceed these limitations for any reason other than as described in LAC 33:III.501.C.12, the permittee shall notify the Office of Environmental Compliance in accordance with Louisiana General Condition XI of LAC 33:III.537.A. For Part 70 sources, the reports required by Paragraph C.2 of this Section shall satisfy this requirement.

2. The permittee shall address each stationary combustion turbine located at a Part 70 source in the submittals required by Part 70 General Conditions K, M, and R of LAC 33:III.535.A. Deviations from the terms and conditions of this regulatory permit, including the standards identified in Subsection D of this Section, shall not be considered violations of the stationary source's Part 70 permit.

D. Stationary Combustion Turbine Standards

1. The permittee shall comply with the provisions of the following federal and state regulations pertaining to stationary combustion turbines, as applicable:

a. LAC 33:III.2201;

b. 40 CFR 60, subpart GG or KKKK; and

c. 40 CFR 63, subpart YYYY.

E. Opacity

1. Smoke. The emission of smoke shall be controlled so that the shade or appearance of the emission is not darker than 20 percent average opacity, except that the emissions may have an average opacity in excess of 20 percent for not more than one six-minute period in any 60 consecutive minutes.

2. Monitoring, Recordkeeping, and Reporting

a. The permittee shall inspect each stationary combustion turbine's stack for visible emissions on a daily basis while in operation. If visible emissions are not detected during the initial six minutes of the inspection, the inspection may be concluded. If visible emissions are detected, the inspection period shall be extended to one hour (60 consecutive minutes).

b. If visible emissions are detected for more than one six-minute period over the 60 consecutive minute test period, the permittee shall conduct a six-minute opacity reading in accordance with Method 9 of 40 CFR 60, Appendix A, within 24 hours.

c. The permittee shall notify the Office of Environmental Compliance no later than 30 calendar days after any Method 9 reading in excess of 20 percent average opacity or, for Part 70 sources, in accordance with Part 70 General Condition R of LAC 33:III.535.A.

d. Records of visible emissions checks shall be kept on-site for at least five years and shall be made available for

inspection by the Office of Environmental Compliance. These records shall include:

- i. the stationary combustion turbine's ID number;
- ii. a record if visible emissions were detected during the initial six minutes of the inspection;
- iii. a record if visible emissions were detected for more than one six-minute period over the 60 consecutive minute test period (if required); and
- iv. a record and the results of any Method 9 testing conducted.

3. Alternatives

a. As an alternative to the requirement to conduct Method 9 testing, the permittee may assume that any visible emissions detected constitute opacity greater than 20 percent. In this case, no visible emissions detected shall be considered opacity less than or equal to 20 percent, even if a qualitative assessment suggests otherwise.

b. The permittee may determine opacity via any federally-approved alternative to Method 9 (e.g., Method ALT-082).

c. In lieu of performing daily visual inspections, the permittee may immediately perform a six-minute opacity reading in accordance with Method 9.

d. The inspection of each stationary combustion turbine's stack for visible emissions may be made using a video camera, provided that the camera is:

- i. capable of capturing images of the stack and a reasonable distance above the stack; and
- ii. set at an angle suitable for visible emissions observations.

4. When the presence of uncombined water is the only reason for failure of an emission to meet the requirements of this Subsection, this Subsection shall not apply.

5. This Subsection shall not apply to stationary combustion turbines described in LAC 33:III.1107.B.1.

F. Performance Testing

1. The following performance testing requirements shall apply to stationary combustion turbines that have the potential to emit more than 40 tons per year of nitrogen oxides (NOX) or more than 100 tons per year of carbon monoxide (CO).

a. No later than 180 days after the stationary combustion turbine commences operation, the permittee shall conduct a performance test to determine NOX and CO emissions using Methods 7E (Determination of Nitrogen Oxides Emissions from Stationary Sources) and 10 (Determination of Carbon Monoxide Emissions from Stationary Sources) of 40 CFR 60, Appendix A. Each test run shall be conducted within 80 percent of the stationary combustion turbine's maximum rated capacity or within 10 percent of the maximum achievable load. Alternate stack test methods may be used with the prior approval of the Office of Environmental Assessment.

i. The permittee shall notify the Office of Environmental Assessment at least 30 days prior to the performance test in order to provide the department with the opportunity to conduct a pretest meeting and/or observe the test.

ii. The permittee shall submit the performance test results to the Office of Environmental Assessment no later than 60 days after completion of the test.

b. This Subsection shall not apply to stationary combustion turbines that remain at a stationary source for less than 12 consecutive months.

c. This Subsection shall not apply to stationary combustion turbines that must conduct a performance test in accordance with applicable federal requirements as described in LAC 33:III.323.D. If a performance test is required for only NOX or CO, but not both, a performance test for the other pollutant shall be conducted during the performance test required by 40 CFR 60.8 and/or 40 CFR 63.7.

G. Emissions Inventory. Each stationary source subject to LAC 33:III.919 shall include emissions from each stationary combustion turbine authorized by this regulatory permit in its annual emissions inventory.

H. Notification Requirements

1. Written notification describing the stationary combustion turbine shall be submitted to the Office of Environmental Services using the appropriate form provided by the department.

2. A separate notification shall be submitted for each stationary combustion turbine.

I. Fees. Fees for this regulatory permit shall be the applicable major or minor modification fee for the stationary source as determined in accordance with LAC 33:III.211.B. Applicable surcharges as described in LAC 33:III.211.A shall also be assessed.

J. Stationary combustion turbines authorized by this regulatory permit shall be included in the next application to renew or modify the stationary source's existing permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 46:558 (April 2020).

Herman Robinson
General Counsel

2004#063

RULE

**Office of the Governor
Division of Administration
Tax Commission**

Ad Valorem Taxation

(LAC 61:V.101, 121, 213, 303, 703, 907,
1103, 1307, 1503, 2503, 2711, 2713, 2717, and 3103)

In accordance with provisions of the Administrative Procedure Act (R.S. 49:950 et seq.), and in compliance with statutory law administered by this agency as set forth in R.S. 47:1837, the Tax Commission has adopted, amended and/or repealed sections of the Louisiana Tax Commission real/personal property rules and regulations for use in the 2020 (2021 Orleans Parish) tax year. This Rule is hereby adopted on the day of promulgation.

Title 61
REVENUE AND TAXATION
Part V. Ad Valorem Taxation

Chapter 1. Constitutional and Statutory Guides to Property Taxation

§101. Constitutional Principles for Property Taxation

A. - F.3.h. ...

G. Special Assessment Level

1. - 1.d. ...

2. Any person or persons shall be prohibited from receiving the special assessment as provided in this Section if such person's or persons' adjusted gross income, for the year prior to the application for the special assessment, exceeds \$77,030 for tax year 2020 (2021 Orleans Parish). For persons applying for the special assessment whose filing status is married filing separately, the adjusted gross income for purposes of this Section shall be determined by combining the adjusted gross income on both federal tax returns.

3. - 9. ...

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, §18.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 15:1097 (December 1989), amended by the Department of Revenue, Tax Commission, LR 24:477 (March 1998), LR 26:506 (March 2000), LR 31:700 (March 2005), LR 32:425 (March 2006), LR 33:489 (March 2007), LR 34:673 (April 2008), LR 35:492 (March 2009), LR 36:765 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1394 (May 2011), LR 38:799 (March 2012), LR 39:487 (March 2013), LR 40:528 (March 2014), LR 41:671 (April 2015), LR 42:744 (May 2016), LR 43:648 (April 2017), LR 44:577 (March 2018), LR 45:531 (April 2019), LR 46:560 (April 2020).

§121. Reappraisal

A. Real property, as defined in R.S. 47:2322, shall be reappraised and reassessed at least every 4 years.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2331.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:921 (November 1984), LR 15:1097 (December 1989), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 34:677 (March 2008), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 43:649 (April 2017), LR 46:560 (April 2020).

§213. Assessment Policies and Procedures

A. - B. ...

C. All property shall be reappraised and valued in accordance with the Constitution at intervals of not more than four years. This quadrennial cycle reappraisal date is determined by the Louisiana Tax Commission.

D. - G.3....

* * *

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution of 1974, Article VII, Section 18, et seq., R.S. 47:1703, R.S. 47:1703.1, R.S. 47:1703.C., R.S. 47:1837, R.S. 47:1951, et seq., R.S. 47:1952, R.S. 47:1953, R.S. 47:1955, R.S. 47:1956, R.S. 47:1957, R.S. 47:1959, R.S. 47:1961, R.S. 47:1971, R.S. 47:1972, R.S. 47:2306, R.S. 47:2323, R.S. 47:2324; R.S. 47:2325, R.S. 47:2329, R.S. 47:2330, and R.S. 47:2331.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Tax Commission, LR 31:703 (March 2005), LR 34:678

(March 2008), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 43:649 (April 2017), LR 46:560 (April 2020).

Chapter 3. Real and Personal Property

§303. Real Property

A. - A.2. ...

B. The following procedure shall be used for assessing, listing and placing transferred property and property upon which improvements have been made after the date of the reappraisal as set by the Tax Commission:

1. Improvements shall be added to the rolls based upon the condition of things existing on January 1 of each year (except Orleans Parish). New improvements for Orleans Parish shall be added to the next year's tax roll, based upon the condition of things existing on August 1 of each year. Value of the improvements will be indexed to the date of the last reappraisal.

2. The assessor may reappraise property based on property transfers more often than every four years, if transfers indicate that property in all or a part of the assessing district, or within a certain classification, was appraised inaccurately or was not uniformly appraised during the prior reappraisal. However, the reappraisal shall not be applied on a parcel by parcel basis, but rather, across the board in a given geographical area. Values determined from recent transfers would then be indexed to the date of the last reappraisal.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 7:44 (February 1981), amended by the Department of Revenue and Taxation, Tax Commission, LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:764 (December 1987), LR 16:1063 (December 1990), LR 17:611 (June 1991), LR 21:186 (February 1995), amended by the Department of Revenue, Tax Commission, LR 25:312 (February 1999), LR 26:506 (March 2000), LR 29:367 (March 2003), LR 30:487 (March 2004), LR 34:678 (April 2008), LR 35:492 (March 2009), LR 36:765 (April 2010), amended by the Division of Administration, Tax Commission, LR 38:799 (March 2012), LR 39:487 (March 2013), LR 42:745 (May 2016), LR 43:650 (April 2017), LR 44:577 (March 2018), LR 45:532 (April 2019), LR 46:560 (April 2020).

Chapter 7. Watercraft

§703. Tables—Watercraft

A. Floating Equipment—Motor Vessels

Table 703.A				
Floating Equipment—Motor Vessels				
Cost Index (Average)		Average Economic Life 12 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2019	0.993	1	94	.93
2018	1.029	2	87	.90
2017	1.065	3	80	.85
2016	1.086	4	73	.79
2015	1.077	5	66	.71
2014	1.087	6	58	.63
2013	1.101	7	50	.55
2012	1.110	8	43	.48
2011	1.142	9	36	.41
2010	1.178	10	29	.34
2009	1.169	11	24	.28
2008	1.202	12	22	.26
2007	1.250	13	20	.25

B. Floating Equipment—Barges (Non-Motorized)

Table 703.B Floating Equipment—Barges (Non-Motorized)				
Cost Index Average		Average Economic Life 20 Years		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2019	0.993	1	97	.96
2018	1.029	2	93	.96
2017	1.065	3	90	.96
2016	1.086	4	86	.93
2015	1.077	5	82	.88
2014	1.087	6	78	.85
2013	1.101	7	74	.81
2012	1.110	8	70	.78
2011	1.142	9	65	.74
2010	1.178	10	60	.71
2009	1.169	11	55	.64
2008	1.202	12	50	.60
2007	1.250	13	45	.56
2006	1.318	14	40	.53
2005	1.379	15	35	.48
2004	1.483	16	31	.46
2003	1.534	17	27	.41
2002	1.560	18	24	.37
2001	1.570	19	22	.35
2000	1.583	20	21	.33
1999	1.611	21	20	.32

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:924 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:204 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:479 (March 1998), LR 25:312 (February 1999), LR 26:506 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:487 (March 2004), LR 31:715 (March 2005), LR 32:430 (March 2006), LR 33:490 (March 2007), LR 34:678 (April 2008), LR 35:492 (March 2009), LR 36:772 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1394 (May 2011), LR 38:802 (March 2012), LR 39:490 (March 2013), LR 40:530 (March 2014), LR 41:673 (April 2015), LR 42:746 (May 2016), LR 43:652 (April 2017), LR 44:579 (March 2018), LR 45:533 (April 2019), LR 46:560 (April 2020).

Chapter 9. Oil and Gas Properties

§907. Valuation of Oil, Gas, and Other Wells

A. ...

1. Oil, Gas and Associated Wells; Region 1—North Louisiana

Table 907.A.1 Oil, Gas and Associated Wells; Region 1—North Louisiana				
Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	42.38	136.20	6.36	20.43
1,250-2,499 ft.	38.26	100.14	5.74	15.02
2,500-3,749 ft.	30.07	66.33	4.51	9.95
3,750-4,999 ft.	41.60	66.09	6.24	9.91
5,000-7,499 ft.	48.92	64.51	7.34	9.68

Table 907.A.1 Oil, Gas and Associated Wells; Region 1—North Louisiana				
Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
7,500-9,999 ft.	107.23	86.95	16.08	13.04
10,000-12,499 ft.	312.69	105.47	46.90	15.82
12,500-14,999 ft.	508.54	159.27	76.28	23.89
15,000-17,499 ft.	650.87	181.61	97.63	27.24
17,500-Deeper ft.	N/A	508.00	N/A	76.20

2. Oil, Gas and Associated Wells; Region 2—South Louisiana

Table 907.A.2 Oil, Gas and Associated Wells; Region 2—South Louisiana				
Producing Depths	Cost—New By Depth, Per Foot		15% of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0-1,249 ft.	325.86	135.31	48.88	20.30
1,250-2,499 ft.	112.53	224.89	16.88	33.73
2,500-3,749 ft.	109.88	179.30	16.48	26.90
3,750-4,999 ft.	96.86	143.43	14.53	21.51
5,000-7,499 ft.	132.33	162.93	19.85	24.44
7,500-9,999 ft.	180.52	170.59	27.08	25.59
10,000-12,499 ft.	246.15	222.99	36.92	33.45
12,500-14,999 ft.	322.91	288.48	48.44	43.27
15,000-17,499 ft.	523.05	386.24	78.46	57.94
17,500-19,999 ft.	638.62	547.09	95.79	82.06
20,000-Deeper ft.	341.00	821.36	51.15	123.20

3. Oil, Gas and Associated Wells; Region 3—Offshore State Waters

Table 907.A.3 Oil, Gas and Associated Wells; Region 3—Offshore State Waters*				
Producing Depths	Cost—New By Depth, Per Foot		15% Of Cost—New By Depth, Per Foot	
	\$ Oil	\$ Gas	\$ Oil	\$ Gas
0 -1,249 ft.	N/A	N/A	N/A	N/A
1,250 -2,499 ft.	1,633.46	1,095.91	245.02	164.39
2,500 -3,749 ft.	839.95	842.25	125.99	126.34
3,750 -4,999 ft.	1,198.93	772.30	179.84	115.85
5,000 -7,499 ft.	596.65	715.32	89.50	107.30
7,500 -9,999 ft.	756.43	676.90	113.46	101.54
10,000 -12,499 ft.	856.35	686.13	128.45	102.92
12,500 -14,999 ft.	744.78	667.74	111.72	100.16
15,000 -17,499 ft.	513.32	692.85	77.00	103.93
17,500 -19,999 ft.	255.70	662.38	38.36	99.36
20,000 - Deeper ft.	N/A	1,041.19	N/A	156.18

B. The determination of whether a well is a Region 2 or Region 3 well is ascertained from its onshore/offshore status as designated on the Permit to Drill or Amended Permit to Drill form (Location of Wells Section), located at the Department of Natural Resources as of January 1 of each tax year. Each assessor is required to confirm the onshore/offshore status of wells located within their parish by referring to the Permit to Drill or Amended Permit to Drill form on file at the Department of Natural Resources.

1. Parishes Considered to be Located in Region I

Table 907.B.1 Parishes Considered to be Located in Region 1			
Bienville	DeSoto	Madison	Tensas
Bossier	East Carroll	Morehouse	Union
Caddo	Franklin	Natchitoches	Webster

Table 907.B.1 Parishes Considered to be Located in Region 1			
Caldwell	Grant	Ouachita	West Carroll
Catahoula	Jackson	Red River	Winn
Claiborne	LaSalle	Richland	
Concordia	Lincoln	Sabine	

NOTE: All wells in parishes not listed above are located in Region 2 or Region 3.

2. Serial Number to Percent Good Conversion Chart

Table 907.B.2 Serial Number to Percent Good Conversion Chart			
Year	Beginning Serial Number	Ending Serial Number	20 Year Life Percent Good
2019	251497	Higher	97
2018	250707	251496	93
2017	249951	250706	90
2016	249476	249950	86
2015	248832	249475	82
2014	247423	248831	78
2013	245849	247422	74
2012	244268	245848	70
2011	242592	244267	65
2010	240636	242591	60
2009	239277	240635	55
2008	236927	239276	50
2007	234780	236926	45
2006	232639	234779	40
2005	230643	232638	35
2004	229010	230642	31
2003	227742	229009	27
2002	226717	227741	24
2001	225352	226716	22
2000	223899	225351	21
1999	Lower	223898	20 *
VAR.	900000	Higher	50

*Reflects residual or floor rate.

NOTE: For any serial number categories not listed above, use year well completed to determine appropriate percent good. If spud date is later than year indicated by serial number; or, if serial number is unknown, use spud date to determine appropriate percent good.

C. - C.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2326.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:480 (March 1998), LR 25:313 (February 1999), LR 26:507 (March 2000), LR 27:425 (March 2001), LR 28:518 (March 2002), LR 29:368 (March 2003), LR 30:488 (March 2004), LR 31:717 (March 2005), LR 32:431 (March 2006), LR 33:492 (March 2007), LR 34:679 (April 2008), LR 35:495 (March 2009), LR 36:773 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1395 (May 2011), LR 38:803 (March 2012), LR 39:490 (March 2013), LR 40:531 (March 2014), LR 41:673 (April 2015), LR 42:746 (May 2016), LR 43:653 (April 2017), LR 44:580 (March 2018), LR 45:534 (April 2019), LR 46:561 (April 2020).

Chapter 11. Drilling Rigs and Related Equipment
§1103. Drilling Rigs and Related Equipment Tables

A. Land Rigs

Table 1103.A Land Rigs		
Depth "0" to 7,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
3,000	275,800	41,400
4,000	357,200	53,600
5,000	397,312	59,600
6,000	456,300	68,400
7,000	568,900	85,300
Depth 8,000 to 10,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
8,000	776,700	116,500
9,000	1,089,100	163,400
10,000	1,498,800	224,800
Depth 11,000 to 15,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
11,000	1,985,600	297,800
12,000	2,519,500	377,900
13,000	3,064,700	459,700
14,000	3,582,300	537,300
15,000	4,034,700	605,200
Depth 16,000 to 20,000 Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
16,000	4,388,200	658,200
17,000	4,617,000	692,600
18,000	4,706,500	706,000
19,000	4,657,000	698,600
20,000	4,486,600	673,000
Depth 21,000 + Feet		
Depth (Ft.)	Fair Market Value	Assessment
	\$	\$
21,000	4,023,630	603,500
25,000 +	3,372,970	505,900

1. - 2. ...

B. Jack-Ups

Table 1103.B Jack-Ups			
Type	Water Depth Rating	Fair Market Value	Assessment
IC	0-199 FT.	\$ 56,900,000	\$ 8,535,000
	200-299 FT.	113,800,000	17,070,000
	300 FT. and Deeper	227,200,000	34,080,000
IS	0-199 FT.	17,100,000	2,565,000
	200-299 FT.	28,500,000	4,275,000
	300 FT. and Deeper	34,100,000	5,115,000
MC	0-199 FT.	5,700,000	855,000
	200-299 FT.	11,400,000	1,710,000
	300 FT. and Deeper	45,500,000	6,825,000
MS	0-249 FT.	11,900,000	1,785,000
	250 FT. and Deeper	23,500,000	3,525,000

IC - Independent Leg Cantilever
IS - Independent Leg Slot
MC - Mat Cantilever
MS - Mat Slot

C. Semisubmersible Rigs

Table 1103.C Semisubmersible Rigs		
Water Depth Rating	Fair Market Value	Assessment
	\$	\$
0- 800 FT.	52,000,000	7,800,000
801-1,800 FT.	93,200,000	13,980,000
1,801-2,500 FT.	170,700,000	25,605,000
2,501FT. and Deeper	535,700,000	80,355,000

NOTE: The fair market values and assessed values indicated by these tables are based on the current market (sales) appraisal approach and not the cost approach.

C.1. - C.3.b.i. ...

D. Well Service Rigs Land Only

Table 1103.D Well Service Rigs Land Only				
Class	Mast	Engine	Fair Market Value (RCNLD)	Assessment
I	71' X 125M# 71' X 150M# 72' X 125M# 72' X 150M# 75' X 150M#	C-7 50 SERIES 6V71	105,000	15,800
II	96' X 150M# 96' X 180M# 96' X 185M# 96' X 200M# 96' X 205M# 96' X 210M# 96' X 212M# 96' X 215M#	C-11 50 SERIES 8V71	145,000	21,800
III	96' X 240M# 96' X 250M# 96' X 260M# 102' X 215M#	C-11 50 SERIES 8V92	185,000	27,800
IV	102' X 224M# 102' X 250M# 103' X 225M# 103' X 250M# 104' X 250M# 105' X 225M# 105' X 250M#	C-15 60 SERIES 12V71	225,000	33,800
V	105' X 280M# 106' X 250M# 108' X 250M# 108' X 260M# 108' X 268M# 108' X 270M# 108' X 300M#	C-15 60 SERIES 12V71 12V92	265,000	39,800
VI	110' X 250M# 110' X 275M# 112' X 300M# 112' X 350M#	C-15 60 SERIES 12V71 (2) 8V92	315,000	47,300
VII	117' X 215M#	C-15 60 SERIES (2) 8V92 (2) 12V71	375,000	56,300

D.1. - E.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:939 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 16:1063 (December 1990),

LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:205 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:487 (March 1998), LR 25:315 (February 1999), LR 26:508 (March 2000), LR 27:426 (March 2001), LR 28:519 (March 2002), LR 30:488 (March 2004), LR 31:718 (March 2005), LR 32:431 (March 2006), LR 33:493 (March 2007), LR 34:683 (April 2008), LR 35:497 (March 2009), LR 36:778 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1399 (May 2011), LR 38:808 (March 2012), LR 39:495 (March 2013), LR 40:536 (March 2014), LR 41:678 (April 2015), LR 42:748 (May 2016), LR 43:654 (April 2017), LR 44:581 (March 2018), LR 45: 535 (April 2019), LR 46:562 (April 2020).

Chapter 13. Pipelines

§1307. Pipeline Transportation Tables

A. Current Costs for Other Pipelines (Onshore)

Table 1307.A Current Costs for Other Pipelines (Onshore)		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
2	\$ 186,950	\$ 28,040
4	220,560	33,080
6	260,200	39,030
8	306,970	46,050
10	362,150	54,320
12	427,250	64,090
14	504,040	75,610
16	594,640	89,200
18	701,530	105,230
20	827,620	124,140
22	976,390	146,460
24	1,151,890	172,780
26	1,358,940	203,840
28	1,603,200	240,480
30	1,891,370	283,710
32	2,231,340	334,700
34	2,632,420	394,860
36	3,105,590	465,840
38	3,663,810	549,570
40	4,322,370	648,360
42	5,099,300	764,900
44	5,955,730	893,360
46	6,884,310	1,032,650
48	8,038,010	1,205,700

NOTE: Excludes river and canal crossings

B. Current Costs for Other Pipelines (Offshore)

Table 1307.B Current Costs for Other Pipelines (Offshore)		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
2	\$ 1,053,160	\$ 157,970
4	1,057,870	158,680
6	1,063,580	159,540
8	1,081,410	162,210
10	1,103,110	165,470
12	1,134,240	170,140
14	1,169,080	175,360
16	1,213,200	181,980
18	1,266,580	189,990
20	1,329,230	199,380
22	1,401,140	210,170
24	1,482,320	222,350
26	1,572,760	235,910

Table 1307.B Current Costs for Other Pipelines (Offshore)		
Diameter (inches)	Cost per Mile	15% of Cost per Mile
28	1,672,470	250,870
30	1,781,450	267,220
32	1,899,690	284,950
34	2,027,200	304,080
36	2,163,970	324,600
38	2,310,010	346,500
40	2,452,990	367,950
42	2,603,590	390,540
44	2,761,680	414,250
46	2,927,100	439,070
48	3,099,720	464,960

C. Pipeline Transportation Allowance for Physical Deterioration (Depreciation)

Table 1307.C Pipeline Transportation Allowance for Physical Deterioration (Depreciation)	
Actual Age (Yrs)	26.5 Year Life Percent Good
1	98
2	96
3	94
4	91
5	88
6	86
7	83
8	80
9	77
10	73
11	70
12	67
13	63
14	60
15	56
16	52
17	48
18	44
19	39
20	35
21	33
22	30
23	28
24	26
25	25
26	23
27 and older	20 *

*Reflects residual or floor rate.

NOTE: See §1305.G (page PL-3) for method of recognizing economic obsolescence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:941 (November 1984), LR 12:36 (January 1986), LR 16:1063 (December 1990), amended by the Department of Revenue, Tax Commission, LR 24:489 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:426 (March 2001), LR 31:719 (March 2005), LR 32:432 (March 2006), LR 33:494 (March 2007), LR 34:684 (April 2008), LR 35:499 (March 2009), LR 36:778 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1401 (May 2011), LR 38:809 (March 2012), LR 39:496 (March 2013), LR 40:537 (March

2014), LR 41:680 (April 2015), LR 42:748 (May 2016), LR 43:655 (April 2017), LR 44:582 (March 2018), LR 45:535 (April 2019), LR 46:563 (April 2020).

Chapter 15. Aircraft

§1503. Aircraft (Including Helicopters) Table

A. Aircraft (Including Helicopters)

Table 1503 Aircraft (Including Helicopters)				
Cost Index (Average)		Average Economic Life (20 Years)		
Year	Index	Effective Age	Percent Good	Composite Multiplier
2019	0.993	1	97	.96
2018	1.029	2	93	.96
2017	1.065	3	90	.96
2016	1.086	4	86	.93
2015	1.077	5	82	.88
2014	1.087	6	78	.85
2013	1.101	7	74	.81
2012	1.110	8	70	.78
2011	1.142	9	65	.74
2010	1.178	10	60	.71
2009	1.169	11	55	.64
2008	1.202	12	50	.60
2007	1.250	13	45	.56
2006	1.318	14	40	.53
2005	1.379	15	35	.48
2004	1.483	16	31	.46
2003	1.534	17	27	.41
2002	1.560	18	24	.37
2001	1.570	19	22	.35
2000	1.583	20	21	.33
1999	1.611	21	20	.32

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 10:943 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:206 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:316 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:495 (March 2007), LR 34:685 (April 2008), LR 35:499 (March 2009), LR 36:779 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1401 (May 2011), LR 38:809 (March 2012), LR 39:497 (March 2013), LR 40:538 (March 2014), LR 41:680 (April 2015), LR 42:749 (May 2016), LR 43:656 (April 2017), LR 44:584 (March 2018), LR 45:537 (April 2019), LR 46:564 (April 2020).

Chapter 25. General Business Assets

§2503. Tables Ascertaining Economic Lives, Percent Good and Composite Multipliers of Business and Industrial Personal Property

A. - A.1. ...

* * *

B. Cost Indices

Table 2503.B Cost Indices			
Year	Age	National Average 1926 = 100	January 1, 2019 = 100*
2019	1	1727.8	0.993
2018	2	1667.7	1.029
2017	3	1612.2	1.065
2016	4	1580.9	1.086
2015	5	1593.7	1.077
2014	6	1578.8	1.087
2013	7	1558.7	1.101
2012	8	1545.9	1.110
2011	9	1503.2	1.142
2010	10	1457.4	1.178
2009	11	1468.6	1.169
2008	12	1427.3	1.202
2007	13	1373.3	1.250
2006	14	1302.3	1.318
2005	15	1244.5	1.379
2004	16	1157.3	1.483
2003	17	1118.6	1.534
2002	18	1100.0	1.560
2001	19	1093.4	1.570
2000	20	1084.3	1.583
1999	21	1065.0	1.611
1998	22	1061.8	1.616
1997	23	1052.7	1.630
1996	24	1036.0	1.657
1995	25	1020.4	1.682
1994	26	985.0	1.742
1993	27	958.0	1.791
1992	28	939.8	1.826
1991	29	928.5	1.848
1990	30	910.2	1.886
1989	31	886.5	1.936

*Reappraisal Date: January 1, 2019 – 1716.2 (Base Year)

C. ...

D. Composite Multipliers 2020 (2021 Orleans Parish)

Table 2503.D Composite Multipliers 2020 (2021 Orleans Parish)									
27									.47
28									.42
29									.39
30									.38
31									.39

1. Data sources for tables are:

- a. Cost Index—Marshall and Swift Publication Co.;
- b. Percent Good—Marshall and Swift Publication Co.;
- c. Average Economic Life—various.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837 and R.S. 47:2323.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 10:944 (November 1984), LR 12:36 (January 1986), LR 13:188 (March 1987), LR 13:764 (December 1987), LR 14:872 (December 1988), LR 15:1097 (December 1989), LR 16:1063 (December 1990), LR 17:1213 (December 1991), LR 19:212 (February 1993), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), LR 23:207 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:490 (March 1998), LR 25:317 (February 1999), LR 26:509 (March 2000), LR 27:427 (March 2001), LR 28:520 (March 2002), LR 29:370 (March 2003), LR 30:489 (March 2004), LR 31:719 (March 2005), LR 32:433 (March 2006), LR 33:496 (March 2007), LR 34:686 (April 2008), LR 35:500 (March 2009), LR 36:780 (April 2010), amended by the Division of Administration, Tax Commission, LR 37:1402 (May 2011), LR 38:810 (March 2012), LR 39:497 (March 2013), LR 40:538 (March 2014), LR 41:681 (April 2015), LR 42:750 (May 2016), LR 43:656 (April 2017), LR 44:584 (March 2018), LR 45:538 (April 2019), LR 46:564 (April 2020).

Chapter 27. Guidelines for Application, Classification and Assessment of Land Eligible to be Assessed at Use Value

§2711. Tables—Agricultural and Horticultural Lands

A. The following table is hereby established as the gross returns, production cost and net income per acre per year of agricultural and horticultural lands.

Table 2503.D Composite Multipliers 2020 (2021 Orleans Parish)										
Age	3 Yr	5 Yr	6 Yr	8 Yr	10 Yr	12 Yr	15 Yr	20 Yr	25 Yr	30 Yr
1	.70	.84	.86	.89	.91	.93	.94	.96	.97	.97
2	.50	.71	.75	.81	.86	.90	.93	.96	.98	1.00
3	.36	.55	.61	.71	.81	.85	.91	.96	.99	1.01
4	.17	.37	.45	.59	.73	.79	.86	.93	.98	1.01
5		.25	.32	.46	.62	.71	.79	.88	.94	.98
6		.20	.21	.36	.53	.63	.74	.85	.91	.97
7			.20	.29	.43	.55	.68	.81	.89	.95
8				.24	.33	.48	.61	.78	.87	.93
9				.23	.27	.41	.56	.74	.86	.94
10					.25	.34	.51	.71	.84	.93
11					.23	.28	.43	.64	.79	.89
12						.26	.37	.60	.77	.89
13						.25	.33	.56	.75	.89
14							.30	.53	.74	.90
15							.29	.48	.72	.90
16							.30	.46	.71	.90
17								.41	.67	.89
18								.37	.61	.84
19								.35	.53	.80
20								.33	.47	.74
21								.32	.45	.71
22									.42	.65
23									.39	.60
24									.33	.56
25									.34	.52
26									.35	.49

Table 2711.A Weighted Average Income per Acre 2015-2018				
Commodity	Acres ¹	Percent	Net Income	Weighted Fractional ⁷
Beef ²	2,180,969	35.33	28.15	\$9.94
Soybeans	1,257,500	20.37	32.19	6.56
Cotton	164,500	2.66	(53.67)	-0-
Crawfish ⁴	225,117	3.65	302.00	11.01
Rice	418,500	6.78	5.05	0.34
Sugarcane ⁶	593,751	9.62	319.23	30.71
Corn	470,000	7.61	37.26	2.84
Idle Cropland ⁵	453,380	7.34	-----	-0-
Grain Sorghum	34,750	0.56	(27.68)	-0-
Conservation Reserve ³	288,546	4.67	84.59	3.95
Dairy ²	41,473	0.67	(132.76)	-0-
Sweet Potatoes	8,155	0.13	2,234.76	2.95
Watermelon	1,123	0.02	8,082.73	1.47
Southern Peas	822	0.01	1,384.08	0.18
Tomatoes	266	0.00	39,362.59	1.70
Strawberries	325	0.01	19,110.00	1.00
Wheat	33,750	0.55	(60.03)	-0-
Totals	6,172,925	100.000	-----	72.66

Weighted Average Net Income: Sum (Percent x Net Income)
= 72.66

¹ Acres used to weight net income projections are harvested acres for agricultural and horticultural crops, as well as, crawfish. Acres for beef and dairy production are acres in beef cattle and dairy operations, respectively.

² Acreage for beef and dairy were obtained from the 2017 Census of Agriculture, Volume 1, Louisiana State and Parish Data, Table 48.

³ Conservation Reserve Program acreage and payments for 2015 - 2018 were taken from the USDA – FSA Conservation Reserve Program Statistics.

⁴ Assumes farm-raised crawfish are produced in a mono-crop system (35%) or in a rice-crawfish double-crop field rotation system with rice. Net income is weighted by the percent of crawfish acres produced in each system. Revenues and production costs are included for the crawfish portion only.

⁵ Acreage for idle cropland was obtained from the 2017 Census of Agriculture, Volume 1, Louisiana State and Parish Data, Table 8. Includes acreage for cropland idle or used for cover crops or soil-improvement, but not harvested and not pastured or grazed.

⁶ Acreage for sugarcane includes fallow/planted acreage. Net income estimated over total farm acres.

⁷ By state statute, negative net income for a given commodity is set equal to zero.

B. Suggested Capitalization Rate for Agricultural and Horticultural Lands

Table 2711.B Suggested Capitalization Rate for Agricultural and Horticultural Lands	
Risk Rate	2.72%
Illiquidity Rate	0.18%
Safe Rate*	4.91%
Capitalization Rate**	7.81%

*Safe Rate is four year average of 30 year U. S. Treasury securities.

**Statutory minimum capitalization rate of 12 percent used in calculations instead of actual rate as developed above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2301 through R.S. 47:2308.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2301 through R.S. 47:2308.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:764 (December 1987), LR 17:1213 (December 1991), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 26:511 (March 2000), LR 30:491 (March 2004), LR 34:688 (April 2008), LR 46:565 (April 2020).

§2713. Assessment of Timberland

A. Use Value Table 2717.B presents the assessed value of all bona fide timberland.

B. Classification of Timberland. Timberland shall be classified into four categories as follows.

1. Class 1 timberland is timberland capable of producing more than 120 cubic feet of timber per acre per annum.

2. Class 2 timberland is timberland capable of producing more than 85 but less than 120 cubic feet of timber per acre per annum.

3. Class 3 timberland is timberland capable of producing less than 85 cubic feet of timber per acre per annum.

4. Class 4 timberland is timberland capable of producing less than 85 cubic feet of timber per acre per

annum and which is subject to periodic overflow from natural or artificial water courses, and which is otherwise considered to be swampland.

C. Range of Productivity of Timberland. The timberland productivity of each of the four classifications of timberland is hereby established to be as follows:

1. class 1 = 86.6 cu. ft. of growth/acre/year;
2. class 2 = 66.8 cu. ft. of growth/acre/year;
3. class 3 = 39.4 cu. ft. of growth/acre/year;
4. class 4 = 38.8 cu. ft. of growth/acre/year.

D. Production Costs of Timberland. The average timberland production costs are hereby established to be \$10.80/acre/year.

E. Gross Returns of Timberland. The gross value per cubic foot of timber production is hereby established to be \$0.59 per cubic foot.

F. Capitalization Rate for Timberland. The capitalization rate for determining use value of timberlands is hereby established to be as follows.

	Timberland Class 1, 2 and 3	Timberland Class 4
Risk Rate	2.30 %	5.30 %
Illiquidity Rate	- 0.09 %	0.85 %
Safe Rate	4.16 %	5.16 %
Other Factors	3.63 %	4.69 %
Capitalization Rate	10.00 %	16.00%

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2301 through R.S. 47:2308.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:248 (April 1987), LR 14:872 (December 1988), LR 17:1213 (December 1991), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 26:511 (March 2000), LR 30:492 (March 2004), amended by the Division of Administration, Tax Commission, LR 38:811 (March 2012), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 42:751 (May 2016), LR 46:566 (April 2020).

§2717. Tables—Use Value

A. Average Assessed Value per Acre of Agricultural and Horticultural Land, by Class

Table 2717.A Average Assessed Value per Acre of Agricultural and Horticultural Land, by Class		
Class	Assessed Value Per Acre	
	Upper	Lower
Class I	\$42.01	\$35.50
Class II	\$35.25	\$26.49
Class III	\$25.99	\$23.00
Class IV	\$22.48	\$14.97

B. Average Assessed Value per Acre of Timberland, by Class

Table 2717.B Average Assessed Value per Acre of Timberland, by Class	
Class	Assessed Value Per Acre
Class 1	\$40.29
Class 2	\$28.61
Class 3	\$12.45
Class 4	\$ 7.56

C. Average Assessed Value per Acre of Marsh Land, by Class

Table 2717.C.1 Average Assessed Value per Acre of Marshland, by Class West Zone	
Class	Assessed Value Per Acre
Fresh Water Marsh	\$7.00
Brackish Water Marsh	\$6.00
Salt Water Marsh	\$5.00

Table 2717.C.2 Parishes Considered to be Located in the West Zone			
Acadia	Iberia	St. Landry	Vermilion
Calcasieu	Jefferson Davis	St. Martin	
Cameron	Lafayette	St. Mary	

Table 2717.C.3 Average Assessed Value per Acre of Marshland, by Class East Zone	
Class	Assessed Value Per Acre
Fresh Water Marsh	\$ 5.00
Brackish Water Marsh	\$ 4.00
Salt Water Marsh	\$ 3.00

Table 2717.C.4 Parishes Considered to be Located in the East Zone			
Ascension	Lafourche	St. Charles	Terrebonne
Assumption	Livingston	St. James	West Baton Rouge
East Baton Rouge	Orleans	St. John	
Iberville	Plaquemines	St. Tammany	
Jefferson	St. Bernard	Tangipahoa	

NOTE: Only the parishes listed above should have lands classified as marshland. All other parishes should classify such land as all other acreage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:2301 through R.S. 47:2308.

HISTORICAL NOTE: Promulgated by the Department of Revenue and Taxation, Tax Commission, LR 8:102 (February 1982), amended LR 9:69 (February 1983), LR 12:36 (January 1986), LR 13:248 (April 1987), LR 13:764 (December 1987), LR 14:110 (February 1988), LR 17:1213 (December 1991), LR 22:117 (February 1996), LR 23:208 (February 1997), amended by the Department of Revenue, Tax Commission, LR 24:491 (March 1998), LR 26:511 (March 2000), LR 30:492 (March 2004), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 38:811 (March 2012), LR 42:751 (May 2016), LR 46:566 (April 2020).

Chapter 31 Public Exposure of Assessments; Appeals §3103. Appeals to the Louisiana Tax Commission

A. - X. ...

Y. The word *commission*, as used herein, refers to the chairman and the members or its delegate appointed to conduct the hearing.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1837, R.S. 47:1989 and R.S. 47:1992.

HISTORICAL NOTE: Promulgated by the Louisiana Tax Commission, LR 4:339 (September 1978), amended by the Department of Revenue and Taxation, Tax Commission, LR 10:947 (November 1984), LR 15:1097 (December 1989), LR 20:198 (February 1994), LR 21:186 (February 1995), LR 22:117 (February 1996), amended by the Department of Revenue, Tax Commission, LR 24:492 (March 1998), LR 25:319 (February 1999), LR 26:512 (March 2000), LR 28:521 (March 2002), LR 31:721 (March 2005), LR 32:436 (March 2006), LR 33:498 (March 2007), LR 34:688

(April 2008), LR 36:782 (April 2010), amended by the Office of the Governor, Division of Administration, Tax Commission, LR 38:811 (March 2012), LR 41:682 (April 2015), LR 42:752 (May 2016), LR 43:658 (April 2017), LR 45:539 (April 2019), LR 46:567 (April 2020).

Lawrence E. Chehardy
Chairman

2004#034

RULE

**Department of Health
Behavior Analyst Board**

Supervision Requirements
(LAC 46:VIII.503 and 511)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq, the Behavior Analyst Board has amended §503 A., §503 B., and B.2, §511.A, A.1, A.2, A.3, A.4, A.5, and §511.B.

Amendments are necessary to clarify face-to-face contact, real time 1:1 contact, on-site contact, and the use of electronics in supervision. This Rule is hereby adopted on the day of promulgation.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part VIII. Behavior Analysts

Chapter 5. Supervision Requirements

**Subchapter A. Supervision Requirements for State
Certified Assistant Behavior Analysts
(SCABA)**

§503. Supervision Requirements

A. The manner of supervision shall depend on the treatment setting, patient/client caseload, and the competency of the SCABA. At a minimum, for full-time SCABAS, working at least 30 hours per week, a face-to-face supervisory meeting shall occur not less than once every four weeks, with each supervisory session lasting no less than one hour for full-time SCABAS. In-person, on-site observation is preferred. However, this face-to-face supervision may be conducted via web cameras, videoconferencing, or similar means (telehealth) in lieu of the supervisor being physically present in the same geographic space as the technician, provided the remote methods comply with all relevant privacy protection laws and regulations. Face-to-face supervision conducted remotely requires two-way video and audio capability, real-time 1:1 contact must occur while the client's session is occurring; and on-site requires the SCABA to be on-site with the client. The qualifying supervision activities may include:

A.1 - A.2. ...

B. More frequent supervisory activities may be necessary as determined by the LBA or SCABA dependent on the level of expertise displayed by the SCABA, the practice setting, and/or the complexity of the patient/client caseload. Supervision should occur in a schedule and mode consistent with evidence-based practice and sufficient to ensure competence in the delivery of each client's current treatment program. The qualifying supervision may include, but are not limited to:

B.1. ...

2. Camera surveillance of sessions in which a supervisor only views the sessions remotely and communication occurs via text-messages, electronic mail, or other written or typed communication is allowed as additional supervision, but is a non-qualifying supervision activity.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706-R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analysts Board, LR 40:1933 (October 2014), amended by the Department of Health, Behavior Analyst Board, LR 42:1516 (September 2016), amended by the Department of Health, Behavior Analyst Board, LR 46:567 (April 2020).

Subchapter B. Supervision Requirements for Registered Line Technicians (RLT)

§511. Supervision Requirements

A. The manner of supervision shall depend on the treatment setting, client caseload, and the competency of the RLT. It must be noted these are the minimum requirements and every LBA is still responsible for assuring supervision is provided at a frequency and mode that sufficiently addresses the needs of each individual client. The qualifying supervision must include the following criteria:

1. Each RLT must be supervised for a minimum of 5 percent of the hours spent providing applied behavior-analytical services per month.

2. Supervision must include at least two face-to-face contacts per month. At least one of the face-to-face contacts requires the supervisor observe the RLT providing services. In-person, on-site observation is preferred; however, via web cameras, videoconferencing, or similar means in lieu of the supervisor being physically present in the same geographic space as the technician, provided the remote methods comply with all relevant privacy protection laws and regulations is allowed. Face-to-face supervision conducted remotely requires two-way video and audio capability.

3. It must be noted these are minimum requirements and all licensed behavior analysts are still responsible for assuring supervision is provided at a frequency and mode to sufficiently address the needs of each individual client.

4. The LBA may delegate supervisory responsibilities to a SCABA under their direct supervision or another LBA. The LBA of record is ultimately responsible for all supervision requirements.

5. Other supervisory activities may include real-time interactions between a supervising LBA or SCABA and a group of RLTs to review and discuss assessment and treatment plans and procedures, client assessment and progress data and reports, published research, ethical and professional standards and guidelines, professional development needs and opportunities, and relevant laws, regulations and policies.

B. More frequent supervisory activities may be necessary as determined by the LBA, SCABA, or RLT, dependent on the level of expertise displayed by the RLT, the practice setting, and/or the complexity of the client caseload. Supervision should occur at a schedule consistent with evidence-based practice and sufficient to ensure competency in the delivery of each of the client's current treatment

programs. These additional supervisory activities; however, do not qualify towards minimum supervision requirements. Examples of additional non-qualifying supervision includes camera surveillance of sessions in which a supervisor only views the sessions remotely and communication occurs via text-messages, electronic mail, or other written or typed communication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3706-R.S. 37:3708.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Behavior Analysts Board, LR 40:1933 (October 2014), amended by the Department of Health, Behavior Analyst Board, LR 42:1516 (September 2016), amended by the Department of Health, Behavior Analyst Board, LR 46:568 (April 2020).

Rhonda Boe
Executive Director

2004#001

RULE

Department of Health Board of Pharmacy

Cannabis Metered-Dose Inhaler (LAC 46:LIII.2443)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended one section of its rules for marijuana pharmacies to add metered-dose inhalers to the list of allowable dosage forms for marijuana products as authorized by Act 284 of the 2019 Legislature. The amendment of §2443.C.1 adds metered-dose inhalers to the existing list of allowable dosage forms for marijuana products. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 24. Limited Service Providers

Subchapter E. Marijuana Pharmacy

§2443. Marijuana Products

A. - B.8. ...

C. Product Dosage Forms

1. The producer shall limit their production of pharmaceutical grade marijuana products to the following dosage forms:

a - e. ...

f. transdermal patches;

g. suppositories; or

h. metered-dose inhalers.

C.2. - E.4.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1540 (August 2017), amended LR 46:568 (April 2020).

Malcolm J Broussard
Executive Director

2004#041

RULE

**Department of Health
Board of Pharmacy**

Continuing Education Records
(LAC 46:LIII.507)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended Section 507 of its rules relative to continuing education for pharmacists. The rule change repeals the requirement for pharmacists to maintain copies of their continuing education certificates at their primary place of employment, and will instead require pharmacists to maintain records of their continuing education activities with CPE Monitor®, an electronic repository of continuing education records for pharmacists and pharmacy technicians operated by the National Association of Boards of Pharmacy and the Accreditation Council for Pharmacy Education. This Rule is hereby adopted on the day of promulgation.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 5. Pharmacists

§507. Continuing Education Program

A. - B.2. ...

3. *CPE Monitor*—a collaborative service from the National Association of Boards of Pharmacy (NABP) and the Accreditation Council for Pharmacy Education (ACPE) that provides an electronic system for pharmacists and pharmacy technicians to record and track their completed CPE activities.

4. *CPE Unit*—a standard of measurement adopted by the ACPE for the purpose of accreditation of CPE programs. One CPE unit is equivalent to 10 credit hours.

C. Requirements

1. ...

2. Pharmacists shall maintain individual records of personal CPE activities with CPE Monitor and shall authorize the board’s access to their file by recording their Louisiana pharmacist license number within that file, and shall present a copy of their CPE Monitor transcript when requested by the board.

C.3 - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 23:1306 (October 1997), amended LR 29:2083 (October 2003), effective January 1, 2004, amended LR 33:1125 (June 2007), amended by the Department of Health, Board of Pharmacy, LR 46:569 (April 2020).

Malcolm J Broussard
Executive Director

2004#039

RULE

**Department of Health
Board of Pharmacy**

Controlled Substance License for Third Party
Logistics Providers (LAC 46:LIII.Chapter 27)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended several sections within Chapter 27 of its rules relative to controlled substances. Act 186 of the 2018 Legislature amended the state controlled substance law to require the licensure of third party logistics providers, which elect to distribute controlled substances to authorized entities within the state. The changes in §2701 insert definitions of third party logistics providers and reverse distributors and make other technical changes. The changes in §2705 add third party logistics providers to the list of entities required to obtain a state controlled substance license to engage in certain activities with controlled substances. The change in §2707 is a technical change in licensing procedures. The changes in §§2731, 2733, 2735, 2741, and 2751 add third party logistics providers to the list of entities required to keep certain types of records for their activities with controlled substances. This Rule is hereby adopted on the day of promulgation.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 27. Controlled Dangerous Substances

Subchapter A. General Provisions

§2701. Definitions

A. Words not defined in this Chapter shall have their common usage and meaning as stated in the *Merriam-Webster’s Collegiate Dictionary—Tenth Edition*, as revised, and other similarly accepted reference texts. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section unless the context clearly indicates otherwise:

* * *

Department—the Louisiana Department of Health.

* * *

Distributor or Wholesaler—a facility authorized by law and licensed by the Louisiana Board of Drug and Device Distributors to engage in the distribution of drugs or devices, including controlled substances.

* * *

Reverse Distribute—to acquire controlled substances from another registrant or law enforcement for the purpose of:

- a. return to the registered manufacturer or another registrant authorized by the manufacturer to accept returns on the manufacturer’s behalf; or
- b. destruction.

Reverse Distributor—is a person registered by the DEA as a reverse distributor.

* * *

Supplier—any person registered by the DEA who is entitled to fill order forms for controlled substances.

Third-Party Logistics Provider—a person who provides or coordinates warehousing, facilitation of delivery, or other logistic services for a legend drug or legend device in interstate or intrastate commerce on behalf of a manufacturer, distributor, or dispenser of a legend drug or legend device but does not take ownership of the legend drug or legend device nor have responsibility to direct the sale or disposition of the legend drug or legend device.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2127 (October 2008), amended by the Department of Health, Board of Pharmacy, LR 46:569 (April 2020).

Subchapter B. Licenses

§2705. Licenses and Exemptions

A. Every person who conducts research with, manufactures, distributes, procures, possesses, prescribes, or dispenses any controlled dangerous substance within this state, including third-party logistics providers, or who proposes to engage in the research, manufacture, distribution, procurement, possession, prescribing, or dispensing of any controlled dangerous substance within this state shall obtain a controlled dangerous substance (CDS) license from the board prior to engaging in such activities. Only persons actually engaged in such activities are required to obtain a CDS license; related or affiliated persons, e.g., stockholder in manufacturing corporation, who are not engaged in such activities, are not required to be licensed. The performance of such activities in the absence of a valid CDS license shall be a violation of R.S. 40:973 and this Part.

B. - C.3. ...

4. A physician in possession of the appropriate credential issued by the Louisiana State Board of Medical Examiners may apply for and be issued a CDS license to authorize the prescription or recommendation of the following controlled substances classified in Schedule I: marijuana, tetrahydrocannabinols, and synthetic derivatives of tetrahydrocannabinols; provided however that such prescriptions or recommendations shall only be authorized for therapeutic use in compliance with R.S. 40:1046.

D. - E. ...

F. Manufacturers, Distributors and Third-Party Logistics Providers

1. The issuance of a CDS license to a manufacturer, and the renewal thereof, shall require the possession of a valid and verifiable license or other credential from the Food and Drug Control Unit of the Office of Public Health in the Louisiana Department of Health, or its successor. Further, the applicant shall submit to an initial and periodic inspection by the board or its designee.

2. The issuance of a CDS license to a distributor, and the renewal thereof, shall require the possession of a valid and verifiable license or other credential from the Food and Drug Control Unit of the Office of Public Health in the Louisiana Department of Health, as well as the Louisiana Board of Drug and Device Distributors, or their successors. Further, the applicant shall submit to an initial and periodic inspection by the board or its designee.

3. The issuance of a CDS license to a third-party logistics provider, and the renewal thereof, shall require the possession of a valid and verifiable license or other credential from the Louisiana Board of Drug and Device Distributors.

4. The sale or transportation of controlled substances within the State of Louisiana by manufacturers, distributors and third-party logistics providers located outside the State of Louisiana shall require the possession of a valid CDS license issued by the board prior to the engagement of such activities.

G. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2129 (October 2008), amended LR 39:312 (February 2013), amended by the Department of Health, Board of Pharmacy, LR 46:570 (April 2020).

§2707. Licensing Procedures

A. Application for Initial Issuance of CDS License

1. - 3. ...

4. Applicants not in possession of a valid and verifiable license or other credential from a standing professional board of the State of Louisiana, or from the Department of Health, Bureau of Health Services Financing, Health Standards, or their successors, shall submit to a criminal history record check upon request by the board. The applicant shall pay for the cost of the criminal history record check. The board shall evaluate the findings of the report of the criminal history record check prior to the issuance of the CDS license.

A.5 - D.5.e. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2131 (October 2008), amended by the Department of Health, Board of Pharmacy, LR 43:957 (May 2017), amended by the Department of Health, Board of Pharmacy, LR 46:570 (April 2020).

Subchapter E. Recordkeeping Requirements

§2731. General Information

A. - B.4. ...

* * *

5. Each manufacturer, distributor, third-party logistics provider, importer, exporter, narcotic treatment program and compounder for narcotic treatment program shall maintain inventories and records of controlled substances as follows:

B.5.a. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2139 (October 2008), amended by the Department of Health, Board of Pharmacy, LR 46:570 (April 2020).

§2733. Inventory Requirements

A. - C.1.b.iv. ...

D. Inventories of Manufacturers, Distributors, Third-Party Logistics Providers, Dispensers, Researchers, Importers, Exporters, and Chemical Analysts. Each person registered or authorized to manufacture, distribute, dispense, import, export, provide logistics services, conduct research or chemical analysis with controlled substances and required

to keep records shall include in the inventory the information listed below.

1. - 1.d.iii. ...

2. Inventories of Distributors and Third-Party Logistics Providers. Except for reverse distributors covered in this Section, each person authorized to distribute controlled substances shall include in the inventory the same information required of manufacturers pursuant to this Section.

3. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2141 (October 2008), amended by the Department of Health, Board of Pharmacy, LR 46:570 (April 2020).

§2735. Continuing Records

A. - A.4. ...

B. Records for Manufacturers, Distributors, Third-Party Logistics Providers, Dispensers, Researchers, Importers, and Exporters

1. - 1.b.ix. ...

2. Records for Distributors and Third-Party Logistics Providers. Each person authorized to distribute controlled substances shall maintain records with the same information required of manufacturers pursuant to this Section.

B.3. - F.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2142 (October 2008), amended by the Department of Health, Board of Pharmacy, LR 46:571 (April 2020).

§2741. Distribution

A. A distributor or third-party logistics provider handling controlled substances in Schedules I or II shall maintain complete and accurate records of the original copies of all order forms received and filled for orders of controlled substances within these schedules. This file shall be kept separate from the licensee's other business and professional records and shall be kept in this file a minimum of two years from the date the order was filled.

B. A distributor or third-party logistics provider handling controlled substances in Schedules III, IV, and V shall maintain complete and accurate records of all distributions for a minimum of two years from the date of each distribution. These records shall contain the full name, address, and registration number, if any, of the recipient, the common or established name of the controlled substance, its dosage, form, and strength, amount, and date of distribution.

C. A distributor or third-party logistics provider shall not sell or distribute drugs or drug devices except to a person or facility authorized by law or regulation to procure or possess drugs or drug devices.

D. A distributor or third-party logistics provider shall maintain and follow a written procedure to assure the proper handling and disposal of returned goods.

E. A distributor or third-party logistics provider shall maintain a written policy for handling recalls and withdrawals of products due to:

1 - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2147 (October 2008), amended by the Department of Health, Board of Pharmacy, LR 46:571 (April 2020).

§2751. Distributions and Transfers of Controlled Substances

A. - A.3. ...

B. Distribution to Supplier, Third-Party Logistics Provider, or Manufacturer

1. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2157 (October 2008), amended by the Department of Health, Board of Pharmacy, LR 46:571 (April 2020).

Malcolm J Broussard
Executive Director

2004#038

RULE

Department of Health Board of Pharmacy

Correctional Center Pharmacy
(LAC 46:LIII.Chapter 18 and 2303)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended Chapter 18—Penal Pharmacy and §2303—Nonresident Pharmacy Requirements of its rules. Act 310 of the 2016 Legislature expanded the authority for the return and reuse of prescription drugs from those dispensed to an offender in the custody of the state department of public safety and corrections to include those offenders in the custody of local law enforcement agencies. The board has amended §§1801 and 2303 to implement the legislation. In addition, the board has changed the word 'penal' to 'correctional center' throughout Chapter 18 and §2303 and other technical changes. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 18. Correctional Center Pharmacy

§1801. Correctional Center Pharmacy Permit

A. A correctional center pharmacy permit shall be required to operate a pharmacy located within a correctional center owned and/or operated by the Louisiana Department of Public Safety and Corrections or its successor (hereinafter "the department"), or a local law enforcement agency, to provide medications and pharmacy care for offenders residing in that correctional center or another correctional center owned and operated by the department or local law enforcement agency. The pharmacy in the correctional center may also provide medications and pharmacy care to offenders assigned to that facility and residing at home or another housing location.

B. In the event a pharmacy located within the state but outside a correctional center intends to provide medications and pharmacy care on a contractual basis to offenders residing in, or assigned to, a correctional center owned and/or operated by the department or local law enforcement agency that pharmacy shall first obtain a correctional center pharmacy permit.

C. In the event a nonresident pharmacy intends to provide medications and pharmacy care on a contractual basis to offenders residing in, or assigned to, a correctional center owned and/or operated by the department or local law enforcement agency, or to any offender in the custody of the department or local law enforcement agency shall first obtain a nonresident correctional center pharmacy permit, and further, shall comply with the provisions of this Chapter with the exception of acquiring a separate correctional center pharmacy permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1226.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 38:1236 (May 2012), amended LR 39:3074 (November 2013), amended by the Department of Health, Board of Pharmacy, LR 46:571 (April 2020).

§1803. Permit Application Procedures

A. Application for Initial Issuance of Permit

1. The applicant for a correctional center pharmacy permit shall complete the application form supplied by the board and submit it with the required attachments and appropriate fees, as set forth in R.S. 37:1184, to the board.

2. - 5. ...

B. Application for Renewal of Permit

1. Without respect to the date of initial issuance, a correctional center pharmacy permit shall expire at midnight on December 31 of every year, unless surrendered, suspended, or revoked sooner in accordance with the Pharmacy Practice Act or this Part.

2. A correctional center pharmacy shall not operate with an expired permit.

B.3. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1226.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 38:1236 (May 2012), amended by the Department of Health, Board of Pharmacy, LR 46:572 (April 2020).

§1805. Maintenance of Permit

A. A correctional center pharmacy permit is valid only for the entity to whom it is issued and shall not be subject to sale, assignment or other transfer, voluntary or involuntary, nor shall a permit be valid for any premises other than the business location for which it is issued.

B. The owner of the pharmacy shall appoint a Louisiana-licensed pharmacist as the pharmacist-in-charge of the permit. The owner of the pharmacy and the pharmacist-in-charge shall comply with the provisions of Section 1105 of this Part.

C. A pharmacy contemplating permanent closure of its prescription department shall comply with the provisions of §1133 of this Part.

D. A pharmacy contemplating a change in ownership shall comply with the provisions of Section 1135 of this Part.

E. A pharmacy contemplating a change in location shall comply with the provisions of §1137 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1226.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 38:1236 (May 2012), amended by the Department of Health, Board of Pharmacy, LR 46:572 (April 2020).

§1807. Prescription Department Requirements

A. The prescription department of a correctional center pharmacy shall comply with the minimum specifications identified in §1103 of this Part, and further, the specifications provided for the correctional center pharmacy permit may not be held or used by any other pharmacy permit.

B. To ensure adequate access to medications and pharmacy care, the prescription department of a correctional center pharmacy shall be open for business a minimum of 10 hours per week, with said business hours posted at the pharmacy entrance.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1226.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 38:1237 (May 2012), amended LR 39:3074 (November 2013), amended by the Department of Health, Board of Pharmacy, LR 46:572 (April 2020).

§1809. Drug Distribution Control

A. The pharmacist-in-charge shall be responsible for the safe and efficient procurement, receipt, storage, distribution, control, accountability, and patient administration and management of all drugs used in the correctional center. The administration and staff of the facility shall cooperate with the pharmacist-in-charge in meeting drug control requirements in ordering and accounting for drugs.

1. ...

2. The pharmacist-in-charge shall be responsible for making and keeping pharmacy records in compliance with the provisions of Sections 1119 through 1129 of this Part.

3. The procurement, storage, security, and recordkeeping of controlled substances shall be in compliance with the provisions of Chapter 27 of this Part.

B. The pharmacy may utilize automated medication systems but only in compliance with Chapter 12 of this Part.

C. The pharmacy located within a correctional center may utilize drug cabinets located outside the prescription department of that facility to provide access to a limited inventory of medications when the prescription department is closed.

1. A drug cabinet is intended solely for the proper and safe storage of needed drugs when the pharmacy is closed, and such drugs shall be available for emergency use only by authorized facility personnel.

2. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1226.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 38:1237 (May 2012), amended by the Department of Health, Board of Pharmacy, LR 46:572 (April 2020).

§1811. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1226.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 38:1237 (May 2012), repromulgated by the Department of Health, Board of Pharmacy, LR 46:572 (April 2020).

§1813. Emergency Drug Kit Permit

A. A correctional center pharmacy located outside a correctional center intending to use one or more emergency drug kits within the correctional center shall first obtain an EDK permit from the board.

B. Application for Initial Issuance of Permit

1. The correctional center pharmacy shall apply to the board for the permit.

2. - 4. ...

C. Application for Renewal of Permit

1. Without respect to the date of initial issuance, an EDK permit shall expire at midnight on June 30 of every year, unless relinquished, surrendered, suspended, or revoked sooner in accordance with the Pharmacy Practice Act or this Part.

2. ...

3. The correctional center pharmacy shall complete the renewal application form supplied by the board and submit it with any required attachments and appropriate fees on or before the expiration date.

C.4. - D.4. ...

E. Maintenance of Permit

1. EDK permits are specific to a correctional center and to a correctional center pharmacy and they are not transferable.

2. In the event multiple kits are required for a correctional center, a separate permit shall be required for each EDK.

3. The original EDK permit shall be displayed in the correctional center pharmacy supplying the EDK, and a copy of the permit shall be maintained in the room or area where the EDK is located.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1226.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 38:1237 (May 2012), amended by the Department of Health, Board of Pharmacy, LR 46:573 (April 2020).

§1815. Emergency Drug Kit Requirements

A. The EDK shall be tamper-evident, shall be maintained in a secure enclosure located within the correctional center, and shall be available for emergency use by authorized personnel only.

B. The EDK shall be clearly labeled to indicate it is an emergency drug kit, and further, the attached exterior label shall identify the inventory of contents as well as contact information for the correctional center pharmacy responsible for maintaining the kit.

C. - D. ...

E. The correctional center and correctional center pharmacy shall maintain policies and procedures to implement and maintain these requirements. These policies and procedures may be maintained in written or electronic format and shall be available for review by the board or its agents.

F. When an authorized prescriber issues an order for the administration of a drug contained within the EDK, the order and proof of use shall be delivered in written or electronic format to the correctional center pharmacy; further, such records shall contain the following minimum information:

1 - 6. ...

G. The correctional center pharmacy shall inspect the EDK periodically, but in no event more than 30 days after the previous inspection. Proper documentation of these inspections, EDK inventory, and all records of use shall be maintained by the correctional center pharmacy and available for review by the board or its agents.

H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1226.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 38:1238 (May 2012), amended by the Department of Health, Board of Pharmacy, LR 46:573 (April 2020).

§1817. Drug Donations to Correctional Center Pharmacies

A. A correctional center pharmacy may accept the donation of a prescription drug, except a controlled substance, previously dispensed to another patient provided the following procedures are satisfied.

1. The physical transfer of the donated drug shall be accomplished by an individual authorized to do so by the correctional center pharmacy.

2. An inventory list of the drugs being donated shall accompany the drugs received in the correctional center pharmacy; the list shall contain, at a minimum, the name and strength of the drug, the quantity received, and expiration date. The correctional center pharmacy receiving the donated drugs shall maintain this list as an acquisition record.

3. The correctional center pharmacy shall not knowingly accept the donation of any expired drugs. In the event expired drugs are received by a correctional center pharmacy, the pharmacist-in-charge shall destroy them as required by law.

4. - 5. ...

B. The pharmacist-in-charge of the correctional center pharmacy receiving donated drugs shall be responsible for determination of suitability of the drug product for reuse.

1. - 3. ...

C. Once accepted by the correctional center pharmacy, under no circumstances may the donated drugs be transferred to another location.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1226.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 38:1238 (May 2012), amended by the Department of Health, Board of Pharmacy, LR 46:573 (April 2020).

§1819. Medication Use Procedures

A. ...

B. All drugs dispensed by the pharmacy or held for administration to offenders at the facility shall be packaged in appropriate containers that comply with the relevant standards of the USP.

C. The compounding of drug preparations shall comply with the relevant standards of the USP, as well as the provisions of Sections 2531 through 2535 of this Part.

D. All drugs dispensed by the pharmacy, intended for use within the correctional center, shall be labeled as to identify the offender's name and location as well as the drug name and strength. Further, compounded preparations shall include the expiration date or beyond-use date, initials of the preparer, and initials of the pharmacist performing the final check on the label.

E. Drugs dispensed by the correctional center pharmacy may be returned to that correctional center pharmacy for re-use, in accordance with good professional practice procedures, subject to the following limitations.

1. Drugs returned to the pharmacy for re-use shall not be further distributed to another entity.

2. Drugs that may be dispensed only to patients registered with the drug manufacturer in accordance with federal Food and Drug Administration (FDA) requirements shall not be accepted for return or re-dispensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1226.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 38:1239 (May 2012), amended by the Department of Health, Board of Pharmacy, LR 46:573 (April 2020).

Chapter 23. Nonresident Pharmacy

§2303. Nonresident Pharmacy Requirements

A. The nonresident pharmacy shall hold a current pharmacy permit in good standing in the state(s) in which it is located and/or practicing pharmacy.

B. ...

C. Every nonresident pharmacy doing business in Louisiana by dispensing and delivering prescription drugs and devices to Louisiana residents shall designate a resident agent and a registered office in Louisiana for the service of process.

D. Every nonresident pharmacy doing business in Louisiana by dispensing and delivering prescription drugs and devices to offenders in the custody of the Louisiana Department of Public Safety and Corrections or local law enforcement agency shall obtain and maintain a nonresident correctional center pharmacy permit, and further, shall comply with the provisions of Chapter 18 of this Part, with the single exception of the necessity for acquiring a separate correctional center pharmacy permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182 and R.S. 37:1226.3.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 18:1380 (December 1992), effective January 1, 1993, amended LR 29:2100 (October 2003), effective January 1, 2004, amended LR 39:3074 (November 2013), amended by the Department of Health, Board of Pharmacy, LR 46:574 (April 2020).

Malcolm J Broussard
Executive Director

2004#051

RULE

Department of Health Board of Pharmacy

Delays of Licensure Examinations
(LAC 46:LIII.503 and 903)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended §§503 and 903 of its rules relative to licensure examinations for pharmacists and pharmacy technicians. The Rule amendments repeal the existing one-year delay following the third failure of a licensing examination for both pharmacists and pharmacy technicians. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 5. Pharmacists

§503. Examination

A. ...

B. Re-Examination. In the event the candidate fails the examination, the candidate may repeat the examination in compliance with the test administrator's policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2083 (October 2003), effective January 1, 2004, amended by the Dept. of Health, Board of Pharmacy, LR 46:574 (April 2020).

Chapter 9. Pharmacy Technicians

§903. Pharmacy Technician Candidates

A. - C.5. ...

D. Examination

1. ...

2. In the event the candidate fails the examination, the candidate may repeat the examination in compliance with the test administrator's policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 30:2485 (November 2004), effective January 1, 2005, amended LR 39:1777 (July 2013), amended by the Department of Health, Board of Pharmacy, LR 43:2496 (December 2017), effective January 1, 2018, repromulgated LR 44:49 (January 2018), amended LR 46:574 (April 2020).

Malcolm J Broussard
Executive Director

2004#045

RULE
Department of Health
Board of Pharmacy

Dispensing of Prescription Refills (LAC 46:LIII.2519)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended §2519 of its rules for the dispensing of prescription refills. The amendments of §2519 make two changes. The first creates a new Subsection B to prohibit the dispensing of prescription refills not authorized or approved by the patient or caregiver, with such prohibition not applicable to prescriptions dispensed to patients residing in a long-term care facility. The second makes a technical change in Subsection D. This Rule is hereby adopted on the day of promulgation.

Title 46
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Part LIII. Pharmacists

Chapter 25. Prescriptions, Drugs, and Devices

Subchapter B. Prescriptions

§2519. Prescription Refills; Medication Synchronization and Refill Consolidation

A. ...

B. Refill Requests. Prescription refills authorized by the prescriber shall not be dispensed in the absence of a patient or caregiver's request or approval. This prohibition shall not apply to refills authorized by the prescriber which are to be dispensed to a patient residing in a long term care facility.

C. Controlled Dangerous Substances

1. The refilling of a prescription for a drug listed in Schedule II is prohibited.

2. A prescription for a drug listed in Schedule III, IV, or V may be refilled up to five times, if so indicated at the time issued.

D. Medication Synchronization and Refill Consolidation. These terms refer to a service which a pharmacist may perform for his patient, at the request of the patient, wherein he may proactively adjust the medication dispensing quantity and/or the refill schedule of a prescription in order to manage the patient's medication therapy, with the goal of improved medication adherence by the patient.

1. For the performance of this service, the pharmacist may adjust the dispensing quantity and/or the refill schedule originally ordered by the prescriber; however, the pharmacist shall not exceed the total quantity prescribed [dispensing quantity multiplied by the total number of fills authorized (original plus refills)], or what is otherwise allowed by law.

2. With respect to prescriptions for controlled substances where refills have been authorized, pharmacists may utilize partial fills, as described in §2747.C.5 of this Part, but may not exceed the dispensing quantity noted on the original prescription.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2104 (October 2003), effective January 1, 2004, amended LR 33:1133 (June

2007), amended LR 42:1519 (September 2016), amended by the Department of Health, Board of Pharmacy, LR 46:575 (April 2020).

Malcolm J Broussard
Executive Director

2004#042

RULE
Department of Health
Board of Pharmacy

Investigational Drugs (LAC 46:LIII.1529 and 2505)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended §§1529 and 2505 of its rules relative to investigational drugs. The amendment for §1529 creates a new section of rules in Chapter 15, Hospital Pharmacy, which permits hospital pharmacies participating in clinical drug studies to dispense investigational and other commercially available drug products to patients enrolled in such studies even if those patients are not registered patients of the hospital. The amendment for §2505 establishes minimum standards for all pharmacies participating in clinical drug studies with investigational drugs. This Rule is hereby adopted on the day of promulgation.

Title 46
PROFESSIONAL AND OCCUPATIONAL
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Part LIII. Pharmacists

Chapter 15. Hospital Pharmacy

§1529. Investigational Drugs

A. Where the hospital pharmacy is a participant in one or more investigational drug studies, the pharmacy may dispense investigational drug products as well as commercially available drug products to patients enrolled in a study, whether or not the patient is a registered patient of the hospital.

AUTHORITY NOTE: Promulgated in accordance with R.S.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 46:575 (April 2020).

Chapter 25. Prescriptions, Drugs, and Devices

Subchapter A. General Requirements

§2505. Investigational Drugs

A. The pharmacist shall conduct, participate in, and support medical and pharmaceutical research appropriate to the goals, objectives, and resources of the facility.

B. The pharmacist shall ensure the development of policies and procedures for the appropriate use of investigational drugs; such policies shall be consistent with the applicable federal rules pertaining to investigational drugs.

1. The use of investigational drugs shall be authorized by the principal investigator, or his authorized clinician.

2. The pharmacist shall ensure the development of a central repository for the acquisition and maintenance of essential information and the dissemination of that information to all personnel tasked with procurement, storage, dispensing, or administration of investigational drugs.

3. The pharmacist shall retain a copy of the research protocol in the pharmacy; the dispensing pharmacist shall review the protocol prior to dispensing the investigational drug.

4. The dispensing label for investigational drugs shall comply with the provisions of this Chapter; in addition, the label shall bear the phrase "For Investigational Use Only" or a similar caution.

C. The pharmacist shall store investigational drugs in the pharmacy separate from the active dispensing stock of approved drugs.

1. The storage location shall be consistent with the environmental standards for temperature, humidity, and light indicated by the manufacturer.

2. The storage location shall be secured against improper access or diversion.

D. The pharmacist shall maintain a perpetual inventory record for each investigational drug, with such record to contain, at a minimum, the following data elements:

1. drug's name, dosage form, strength, lot number, and expiration date;

2. name, address, and telephone name of the study sponsor;

3. protocol number;

4. identification of dispensing pharmacist; and

5. disposition of any remaining drug supply

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2102 (October 2003), effective January 1, 2004, amended by the Department of Health, Board of Pharmacy, LR 46:575 (April 2020).

Malcolm J Broussard
Executive Director

2004#046

RULE

Department of Health Board of Pharmacy

License Transfer for Pharmacy Technicians
(LAC 46:LIII.903 and 905)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended §§903 and 905 of its rules relative to pharmacy technicians. The Rule change in §903 removes the requirement that pharmacy technicians licensed and practicing in another state obtain a pharmacy technician candidate registration. The Rule change in §905 authorizes pharmacy technicians licensed and practicing in another state to apply for a pharmacy technician certificate in this state provided they can demonstrate successful completion of a board-approved pharmacy technician certification examination and at least one year of practice in that state. This Rule is hereby adopted on the day of promulgation.

Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 9. Pharmacy Technicians

§903. Pharmacy Technician Candidates

A. - A.2.c.i. ...

ii. Proof of successful completion of a board-approved technician certification examination, and further, proof of successful completion of a high school approved by a state department of education or an equivalent degree of education, as evidenced by a valid and legible copy of a diploma, transcript, or other appropriate credential.

A.2.d. - D.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 30:2485 (November 2004), effective January 1, 2005, amended LR 39:1777 (July 2013), amended by the Department of Health, Board of Pharmacy, LR 43:2496 (December 2017), effective January 1, 2018, repromulgated LR 44:49 (January 2018), amended LR 46:576 (April 2020).

§905. Pharmacy Technician Certificate

A. - A.3.b. ...

c. In the event the applicant has been licensed, registered, or otherwise credentialed by another state board of pharmacy and has been practicing for at least one year as a pharmacy technician in that state, the applicant shall demonstrate successful completion of a board-approved pharmacy technician certification examination.

A.4 - B.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 30:2486 (November 2004), effective January 1, 2005, amended LR 38:1235 (May 2012), LR 39:1777 (July 2013), amended by the Department of Health, Board of Pharmacy, LR 43:2497 (December 2017), effective January 1, 2018, amended LR 46:576 (April 2020).

Malcolm J Broussard
Executive Director

2004#040

RULE

Department of Health Board of Pharmacy

Licensing of Marijuana Pharmacies (LAC 46:LIII.2447)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended §2447 of its rules for marijuana pharmacies. The amendment for §2447 clarifies the licensing procedure for marijuana pharmacies to require an inspection of the premises prior to the issuance of the permit that was awarded by the board. This Rule is hereby adopted on the day of promulgation.

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Chapter 24. Limited Service Providers

§2447. Licensing Procedures

A. Application for Initial Issuance of Permit

1. - 18. ...

19. Upon the approval of an application, the board shall award the marijuana pharmacy permit and state controlled dangerous substance license to the applicant. Upon completion of a satisfactory inspection of the pharmacy premises, the board shall issue the marijuana pharmacy permit and state controlled dangerous substance license to the applicant awarded the permit.

A.20. - D.9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1544 (August 2017), amended LR 46:577 (April 2020).

Malcolm J Broussard
Executive Director

2004#048

RULE

**Department of Health
Board of Pharmacy**

Partial Fills of Schedule II Prescriptions (LAC 46:LIII.2747)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended Section 2747 of its rules for controlled substances. Act 32 of the 2018 Legislature amended the controlled substance law to permit the dispensing of partial fills of prescriptions for all medications listed in Schedule II as opposed to only opiate medications listed in Schedule II previously allowed. The Rule change implements the legislation and allows pharmacists to dispense partial fills of prescriptions for all medications listed in Schedule II consistent with federal and state law. This Rule is hereby adopted on the day of promulgation.

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Part LIII. Pharmacists

Chapter 27. Controlled Dangerous Substances

Subchapter F. Production, Distribution, and Utilization

§2747. Dispensing Requirements

A. - B.4.c.iv. ...

5. Partial Filling of Prescription

a. The partial filling of a prescription for a controlled substance listed in Schedule II is permissible with the following limitations:

i. When the pharmacist is unable to supply the full quantity called for in a written (or emergency oral) prescription, he shall make a notation of the quantity supplied on the face of the written prescription (or written record of the emergency oral prescription). The remaining

portion of the prescription may be dispensed within 72 hours of the first partial filling; however, if the remaining portion is not or cannot be filled within the 72-hour period, the pharmacist shall notify the prescriber. No further quantity shall be dispensed beyond 72 hours without a new prescription.

ii. When a partial fill is requested by the patient or the practitioner who wrote the prescription, the pharmacist may dispense any quantity less than the total quantity prescribed. The total quantity dispensed in all partial fillings shall not exceed the total quantity prescribed. No partial filling may be dispensed more than 30 days after the date on which the prescription was written.

B.5.b. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2152 (October 2008), amended LR 41:685 (April 2015), amended by the Department of Health, Board of Pharmacy, LR 46:577 (April 2020).

Malcolm J Broussard
Executive Director

2004#050

RULE

**Department of Health
Board of Pharmacy**

Pharmacy Compounding (LAC 46:LIII.2535)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended the section of its rules containing standards for pharmacy compounding. The amendment of Paragraph A.2 updates the references to federal law and rule. The amendment of Subsection F updates the standards for compounding copies of commercially available products consistent with recent guidance information from the federal Food and Drug Administration. This Rule is hereby adopted on the day of promulgation.

**Title 46
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Part LIII. Pharmacists

Chapter 25. Prescriptions, Drugs, and Devices

§2535. General Standards

A. Compounding Practices. Compounded medications may be prepared using prescription medications, over-the-counter medications, chemicals, compounds, or other components.

1. ...

2. All compounding shall be accomplished utilizing accepted pharmacy techniques, practices, and equipment, and in compliance with the Federal Food, Drug and Cosmetic Act of 1938 as subsequently amended, the current edition of Title 21 of the Code of Federal Regulations (CFR), and all relevant chapters of the 2014 edition of the United States Pharmacopeia-National Formulary (USP 37-NF 32).

A.2.a. - E.4. ...

F. Compounding Copies of Commercial Drug Products.

1. Copies of commercial drug products contain the same active pharmaceutical ingredient(s) in the same, similar, or easily substitutable dosage strength which can be used by the same route of administration. Changes in strength of less than ten percent from the commercial drug product shall not be considered significant enough to warrant the preparation of a copy of a commercial drug product. In the event a prescriber determines a change in the formulation of a commercial drug product is necessary to produce a significant clinical difference for the patient and that determination is documented on the prescription, the pharmacy may prepare a variation of the commercial drug product, provided:

a. the prescriber's determination shall identify both the relevant change requested and the clinically significant difference the change will produce for the patient; and

b. the pharmacy does not prepare copies of commercial drug products regularly or in inordinate amounts.

2. A pharmacy may prepare a copy of a commercial drug product when that product has been discontinued and is no longer marketed, or the product appears on the drug shortage list maintained by the federal Food and Drug Administration, or the product is temporarily unavailable as demonstrated by invoice or other communication from the distributor or manufacturer.

G. - G.2.i. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 23:1316 (October 1997), amended LR 29:2105 (October 2003), effective January 1, 2004, amended LR 41:97 (January 2015), amended LR 42:891 (June 2016), LR 46:577 (April 2020).

Malcolm J Broussard
Executive Director

2004#036

RULE

**Department of Health
Board of Pharmacy**

Pharmacy Immunizations (LAC 46:LIII.521)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended §521 of its rules for pharmacists administering immunizations. The amendment for §521.F requires the immunizing pharmacist or his designee to report the immunization to the state immunization registry within 72 hours following the immunization. A new Subsection

§521.H establishes minimum staffing and equipment standards for pharmacies hosting immunization activities. This Rule is hereby adopted on the day of promulgation.

Title 46

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Chapter 5. Pharmacists

Subchapter B. Professional Practice Procedures

§521. Prescription Orders to Administer Medications

A. - E.2. ...

F. Vaccines

1. The pharmacist shall maintain and furnish the following information to the practitioner within 24 hours of the administration:

a. name and address of the patient;

b. age of the patient, if under fourteen years of age;

c. name of the patient's primary care physician as provided by the patient or patient's agent;

d. name, manufacturer, and lot number of the vaccine administered;

e. amount administered;

f. date of vaccine administration;

g. site of vaccine administration;

h. route of administration; and

i. name, address, and telephone number of the pharmacist administering the vaccine.

2. The immunizing pharmacist or his designee shall report the immunization to the state immunization registry within 72 hours of the administration of the immunization.

G. ...

H. Pharmacies hosting immunization activities, as well as pharmacists administering immunizations in a location other than a pharmacy, shall comply with the following minimum standards:

1. There shall be sufficient staffing available for the pharmacist to administer the immunization and monitor the patient afterward without distraction from other responsibilities.

2. To facilitate emergency management of anaphylactic reactions, there shall be adequate supplies of medication and equipment, as well as pre-determined procedures for the arrangement of emergency medical services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2085 (October 2003), effective January 1, 2004, amended LR 34:1409 (July 2008), amended by the Department of Health, Board of Pharmacy, LR 46:578 (April 2020).

Malcolm J Broussard
Executive Director

2004#047

RULE
Department of Health
Board of Pharmacy

Pharmacy Records
(LAC 46:LIII.Chapters 11, 15, 17, and 25)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended portions of four chapters of its rules, primarily with respect to pharmacy records, but also with a large number of technical revisions relating to editorial style. The impetus for the new rules is Act 602 of the 2018 Legislature, which added the term “chart order” to the pharmacy law and authorizes their use in pharmacies.

The substantive changes in Chapter 11 include deletion of the requirement for pharmacies to maintain printed versions of the Louisiana Board of Pharmacy Laws and Regulations in §1103.K, deletion of the requirement for the pharmacist-in-charge affidavit to be notarized in §1105.J, insertion of the term “chart order” and its statutory definition in §1119, insertion of provisions authorizing use of chart orders in various types of pharmacy records in §1123 and §1124, deletion of Subsection M in §1123 and the terms “inpatient prescription” and “dispensing of drug pursuant to an inpatient prescription” in §1124, all of which had been necessary due to the absence of chart orders in the Board’s rules, insertion of a new §1145 enabling remote access to prescription records and chart orders in pharmacies, and insertion of a new §1147 enabling a pharmacy to share chart orders with certain pharmacies.

The substantive changes in Chapter 15 include deletion of the term “hospital prescription” and “dispensing of a drug pursuant to a hospital prescription”, both of which had been necessary due to the absence of chart orders in the Board’s rules, deletion of §1507 which is now duplicative of the same two-year practice requirement for pharmacists-in-charge for all pharmacies and now found in §1105, and deletion of §1527 relative to remote access to medical orders, the content of which is being relocated to the new §1145 in Chapter 11.

The substantive changes in Chapter 17 removes the requirement in §1711 for the emergency drug kit (EDK) permit to be conspicuously displayed at the provider pharmacy as long as it is readily retrievable, and insertion of a new Subsection E in §1711 enabling the relinquishment of an EDK permit when the pharmacy intends to cancel it prior to the next renewal.

The substantive changes in Chapter 25 inserts the term “chart orders” and its statutory definition in §2511, makes provisions for the use of chart orders in pharmacy records in §2511 and §2513, and inserts a new Subsection F in §2511 enabling procedures for pharmacists to record changes in incomplete prescriptions and chart orders. This Rule is hereby adopted on the day of promulgation.

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Chapter 11. Pharmacies

Subchapter A. General Requirements

§1103. Prescription Department Requirements

A. - B. ...

C. Square Footage. A prescription department that is new or remodeled on or after January 1, 2004 shall be not less than 300 total square feet, and shall be inaccessible to the public.

D. Prescription Counter. A prescription counter on which to compound or dispense medications shall have a working surface of not less than a minimum of 24 total square feet. The minimum unobstructed free working surface shall be kept clear at all times for the compounding or dispensing of prescriptions.

E. Prescription Aisle Space. The aisle space behind the prescription counter shall be not less than 30 inches in width.

F. - J. ...

K. References. The current edition of the *Louisiana Board of Pharmacy Laws and Regulations* shall be maintained and readily available within the prescription department of a pharmacy. The pharmacy shall maintain access to current and appropriate reference materials pertinent to the pharmacy practice, including but not limited to, pharmacology, drug interactions, dosing, toxicity, and patient counseling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1310 (October 1997), amended LR 29:2087 (October 2003), effective January 1, 2004, amended LR 39:315 (February 2013), amended by Department of Health, Board of Pharmacy, LR 46:579 (April 2020).

§1105. Pharmacist-in-Charge

A. - I.3. ...

J. Affidavit of Responsibility and Duties. The designated pharmacist-in-charge shall sign an affidavit on a form supplied by the board indicating his understanding and acceptance of the duties and responsibilities of a pharmacist-in-charge. This document shall be submitted to the board for inclusion in the pharmacist’s record in the board office.

K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1310 (October 1997), amended LR 29:2088 (October 2003), effective January 1, 2004, amended LR 38:1239 (May 2012), amended by Department of Health, Board of Pharmacy, LR 46:579 (April 2020).

§1109. Pharmacist Temporary Absence

A. - E. ...

F. If at any time the pharmacist deems it necessary to leave the on-site facility, the pharmacy shall be closed in accordance with §1111 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1311 (October 1997), amended LR 27:2237 (December 2001) effective January 1, 2002, amended LR 29:2088 (October 2003), effective January 1, 2004, amended by Department of Health, Board of Pharmacy, LR 46:579 (April 2020).

§1113. Mechanical Drug Dispensing Devices

A. Dispensing of prescription drugs directly to a patient or caregiver by mechanical devices or machine is prohibited. This prohibition shall not apply to automated medication systems as defined and provided for in Chapter 12 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1311 (October 1997), amended LR 29:2089 (October 2003), effective January 1, 2004, amended by Department of Health, Board of Pharmacy, LR 46:580 (April 2020).

§1115. Advertising

A. False, fraudulent, deceptive, or misleading advertising as prohibited by R.S. 37:1241 of the Pharmacy Practice Act and this Section shall include, but is not limited to, any public misrepresentation done or made with the knowledge, whether actual or constructive, that is untrue or illegal, or is said to be done falsely when the meaning is that the party is in fault for its error. Actual or constructive knowledge as used in this context shall include intentionally, negligently, mistakenly, or accidentally representing an untrue fact.

B. - C. ...

D. No advertising shall include any reference, direct or indirect, to any controlled dangerous substance as provided for in Schedules II, III, IV, or V of R.S. 40:964. The provision of coupons or vouchers for controlled substances through authorized prescribers, which accompany legitimate prescriptions for such controlled substances issued to patients, shall not be prohibited by this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1311 (October 1997), amended LR 29:2089 (October 2003), effective January 1, 2004, amended LR 33:1131 (June 2007), amended by the Department of Health, Board of Pharmacy, LR 46:580 (April 2020).

§1119. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section:

Chart Order—a lawful order entered on the electronic or paper chart or medical record of an inpatient or resident of an institutional facility by a practitioner or his licensed healthcare designee for a drug or device and shall be considered a prescription drug order provided it contains the following:

1. full name of the patient;
2. date of issuance;
3. name, strength, and dosage form of the drug prescribed;
4. directions for use;
5. name of the prescribing practitioner;
6. the prescribing practitioner's written or electronic signature or the written or electronic signature of the

practitioner's licensed healthcare designee, who shall be a licensed nurse, pharmacist, or physician practicing in a long-term care facility. The licensed healthcare designee shall be authorized to document a chart order in the patient's medical record on behalf of the prescribing practitioner pending the prescribing practitioner's signature, or to communicate a prescription to a pharmacy whether telephonically, by facsimile transmission, or electronically.

Department—the Louisiana Department of Health or its successor.

Medical Order—a lawful order of a practitioner that may or may not include a prescription.

* * *

Prescription or Prescription Drug Order—an order from a practitioner authorized by law to prescribe for a drug or device that is patient-specific and is communicated by any means to a pharmacist in a permitted pharmacy, and is to be preserved on file as required by law or regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997), amended LR 29:2090 (October 2003), effective January 1, 2004, amended LR 40:2252 (November 2014), effective January 1, 2015, amended by the Department of Health, Board of Pharmacy, LR 46:580 (April 2020).

§1121. General Requirements

A. - A.1. ...

2. All records required by the laws and regulations of the board shall be provided to the board, or its agents, within 72 hours of request, unless a shorter period is required, as determined by the board or its agent.

3. The failure to produce any pharmacy records requested by the board or its agent within 72 hours of such request shall substantiate a violation of R.S. 37:1241(A)(2).

B. - B.1. ...

2. *Disposition Records*—drugs dispensed pursuant to prescription drug orders or chart orders, administered pursuant to medical orders, or distributed pursuant to purchase orders, and

3. *Inventory Records*—drugs in current possession.

C. Retention. Except as provided in §1123 of this Part, all records required by this Part and by Louisiana law shall be retained for a minimum of two years from the most recent transaction. The failure to retain such records for at least two years shall substantiate a violation of R.S. 37:1229.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997), amended LR 29:2090 (October 2003), effective January 1, 2004, amended LR 40:2252 (November 2014), effective January 1, 2015, amended by the Department of Health, Board of Pharmacy, LR 46:580 (April 2020).

§1123. Records of Prescription Drug Orders and Chart Orders

A. - A.4. ...

B. A pharmacy may use one of the following types of pharmacy information systems:

1. a system that utilizes the original hard copy prescription or chart order to document the initial dispensing, but utilizes a computerized system to dispense refills that does not document the positive identification of

the pharmacist responsible for the practice of pharmacy. In order to document positive identification, this system shall require the manual signature or initials of a pharmacist on a hard copy record as specified in Paragraph E of this Section.

2. an electronic recordkeeping system that complies with the provisions of 21 CFR 1311 et seq. and documents the positive identification of the pharmacist responsible for the practice of pharmacy. Such systems shall provide for routine backups at least once per day.

C. All pharmacy information systems shall be capable of providing immediate retrieval (via display and hard copy printout or other mutually agreeable transfer media) of patient profile information for all prescriptions drug orders and chart orders dispensed within the previous two years. This information shall include the following minimum data:

1. ...

2. date of issuance of the original prescription drug order or chart order by the prescriber;

3. - 8. ...

9. the pharmacist responsible for prescription information entered into the computer system, the pharmacist responsible for prospective drug utilization review as defined in Section 515 of this Part, and the pharmacist responsible for dispensing;

10. ...

11. the refill history of the prescription as defined in Subsection D of this Section.

D. The refill history of the prescription record maintained in the pharmacy information system shall include, but is not limited to:

D.1. - D.4. ...

5. the pharmacist responsible for prospective drug utilization review as defined in Section 515 of this Part, and the pharmacist responsible for dispensing each refill;

D.6. - E. ...

F. Backup Support System

1. ...

2. In the event the pharmacy information system experiences down time, a record of all refills dispensed during such time shall be recorded and then entered into the pharmacy information system as soon as it is available for use. During the time the pharmacy information system is not available, prescriptions drug orders and chart orders may only be refilled if, in the professional judgment of the pharmacist, the number of refills authorized by the prescriber has not been exceeded.

G. A pharmacy purging a pharmacy information system of prescription records shall develop a method of recordkeeping capable of providing retrieval (via display, hard copy printout, or other mutually agreeable transfer media) of information for all prescription drug orders or chart orders filled or refilled within the previous two years. This information shall include, at a minimum, the following data:

1. - 2. ...

3. date of issuance of the original prescription drug order or chart order by the prescriber;

4. - 10. ...

11. total number of refills dispensed to date for that prescription drug order or chart order;

G.12. - H.3. ...

I. Prescription drug orders and chart orders entered into a pharmacy information system but not dispensed shall meet all of the following requirements:

I.1. - I.3. ...

J. With respect to oral prescriptions received in the pharmacy and then transcribed to written form in the pharmacy, or written prescription drug orders or chart orders received by facsimile in the pharmacy, or written prescriptions drug orders or chart orders presented to the pharmacy, a pharmacy may use an electronic imaging system to preserve such prescriptions, but only if:

1. the system is capable of capturing, storing, and reproducing the exact image of a prescription, including the reverse side of the prescription form and its annotations;

2. - 5. ...

K. Filing and Retention of Prescription Forms

1. Written prescription drug order or chart order forms (including transcriptions of verbal prescriptions received in the pharmacy, prescription drug orders or chart orders received by facsimile in the pharmacy, as well as written prescription drug order or chart order forms presented to the pharmacy shall be assembled and stored in prescription number sequence. Prescriptions for controlled dangerous substances listed in Schedule II shall be filed separately from all other prescriptions. Where multiple medications are ordered on a single prescription form and includes one or more controlled dangerous substances listed in Schedule II, then such forms shall be filed with other Schedule II prescriptions. These original hard copy prescription drug order and chart order forms shall be retained in the prescription department for a minimum of two years following the most recent transaction.

2. For those pharmacies utilizing an electronic imaging system as described in Subsection J of this Section, written prescription drug order forms may be assembled and stored in prescription number sequence, or in the alternative, a date scanned sequence. Further, these original hard copy prescriptions drug orders shall be retained in the prescription department for a minimum of one year following the most recent transaction.

3. Prescription drug order and chart order forms received as an electronic image or electronic facsimile directly within the pharmacy information system shall be retained within the information system for a minimum of two years following the most recent transaction. Further, the pharmacy may produce a hard copy of the prescription drug order form but shall not be required to do so merely for recordkeeping purposes.

4. Electronic prescription drug orders and chart orders, those generated electronically by the prescriber, transmitted electronically to the pharmacy, and then received electronically directly into the pharmacy information system, shall be retained within the information system for a minimum of two years following the most recent transaction. The pharmacy may produce a hard copy of the prescription drug order or chart order, but shall not be required to do so merely for recordkeeping purposes.

L. - L.1.a.vi. ...

b. The patient's drug therapy record, which shall contain at least the following information for all the prescription drug orders and chart orders that were filled at the pharmacy:

L.1.b.i - L.1.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1312 (October 1997), amended LR 29:2090 (October 2003), effective January 1, 2004, amended LR 36:755 (April 2010), amended LR 40:2253 (November 2014), effective January 1, 2015, amended by the Department of Health, Board of Pharmacy, LR 46:580 (April 2020).

§1124. Records of Pharmacy Services for Patients in Licensed Healthcare Facilities Other than Hospitals

A. Definitions

* * *

Positive Identification—

a. has the same meaning as defined in Section 1119 of this Chapter, except that a specific facility having a closed electronic drug record keeping system may be permitted to use identifiers utilizing both a password combined with a personal identifier to document the positive identification of each user for the prescribing and administration of a drug, provided the pharmacist-in-charge has determined:

a.i. - a.v. ...

b. all of the above notwithstanding, however, positive identification as defined in Section 1119 of this Chapter shall always be used to document the:

b.i. - b.iii. ...

B. - B.1. ...

2. Inventories. The pharmacist-in-charge shall be responsible for the performance of an annual inventory of all controlled dangerous substances within his span of control, in compliance with the provisions of Section 2733 of this Part.

B.3. - B.3.b.ii.(d). ...

iii. Records of drugs dispensed to patients for use outside the facility shall be maintained in compliance with Section 1123 of this Chapter.

c. A record of all drugs compounded or prepackaged for use only within a healthcare facility, which shall include at least the following:

B.3.c.i. - B.3.e.iii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 40:2255 (November 2014), effective January 1, 2015, amended by Department of Health, Board of Pharmacy, LR 46:582 (April 2020).

§1145. Remote Access to Prescription Drug Orders, Medical Orders, and Chart Orders

A. Notwithstanding any provision of rules to the contrary, nothing shall prohibit a Louisiana-licensed pharmacist who is an employee of or under contract with a pharmacy in Louisiana from accessing that pharmacy's dispensing information system from a location other than the pharmacy in order to process prescription drug orders, medical orders, or chart orders, but only when all of the following conditions are satisfied:

1. the pharmacy establishes controls to protect the privacy and security of confidential records;

2. the pharmacist does not engage in the receiving of written prescription drug orders or medical orders or chart orders or the maintenance of such orders; and

3. no part of the pharmacy's dispensing information system is duplicated, downloaded, or removed from the pharmacy's dispensing information system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 46:582 (April 2020).

§1147. Starter Doses for Patients in Licensed Healthcare Facilities

A. Definitions

Starter Dose Order—a prescription drug order or chart order transmitted by a vendor pharmacy to a starter dose pharmacy for the purpose of obtaining medication for a patient in a licensed health care facility.

Starter dose pharmacy—a Louisiana-licensed pharmacy that dispenses a starter dose of medication to a patient in a licensed health care facility pursuant to a starter dose order.

Vendor Pharmacy—a Louisiana-licensed pharmacy which has a contract with a licensed health facility to dispense medications to patients within that facility.

B. A vendor pharmacy may share a chart order with a starter dose pharmacy without the necessity of transferring such order, for the purpose of authorizing the starter dose pharmacy to dispense starter doses of medication to a patient in a licensed health care facility under the following circumstances:

1. the vendor pharmacy has secured authorization from the facility to utilize a starter dose pharmacy;

2. the vendor pharmacy is in possession of a valid chart order and is unable to furnish the medication ordered in a timely manner; and

3. the vendor pharmacy and starter dose pharmacy maintain records of all chart orders and starter dose orders for a period of not less than two years following date of transmission of such orders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 46:582 (April 2020).

Chapter 15. Hospital Pharmacy

§1501. Cross References

A. For all regulations that apply to permitted hospital pharmacies concerning pharmacy practices and records not specifically stated in this Chapter, refer to Chapters 11 and 25 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:808 (October 1988), effective January 1, 1989, amended LR 29:2093 (October 2003), effective January 1, 2004, amended LR 38:1235 (May 2012), amended by Department of Health, Board of Pharmacy, LR 46:582 (April 2020).

§1503. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section:

* * *

Hospital Off-Site Satellite Pharmacy—a pharmacy located within a hospital licensed by the Louisiana Department of Health, or its successor, the location of which is physically separate from the location of the provider pharmacy.

* * *

Hospital Pharmacy—a pharmacy department permitted by the board and located in a hospital licensed pursuant to R.S. 40:2100 *et seq.* For the purposes of this Chapter, a hospital pharmacy is one example of a primary care treatment modality pharmacy.

* * *

Positive Identification—

1. has the same meaning as defined in Section 1119 of this Part, except that a specific hospital having a closed electronic drug record keeping system may be permitted to use identifiers utilizing both a password combined with a personal identifier to document the positive identification of each user for the prescribing and administration of a drug, provided the pharmacist-in-charge has determined:

1.a. - 1.e. ...

2. All of the above notwithstanding, however, *positive identification* as defined in Section 1119 of this Part shall always be used to document the:

2.a. - 2.c. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2093 (October 2003), effective January 1, 2004, amended LR 33:1132 (June 2007), amended LR 39:1282 (May 2013), amended LR 40:2256 (November 2014), effective January 1, 2015, amended LR 41:2147 (October 2015), amended by Department of Health, Board of Pharmacy, LR 46:582 (April 2020).

§1505. Hospital Pharmacy Permit

A. A hospital pharmacy permit shall be required to operate a pharmacy department located within a hospital for registered patients in a hospital. The permit shall be applied for, and renewed, in the manner prescribed by the board in Chapter 11 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2093 (October 2003), effective January 1, 2004, amended LR 33:1132 (June 2007), amended by Department of Health, Board of Pharmacy, LR 46:583 (April 2020).

§1507. Repealed

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2093 (October 2003), effective January 1, 2004, repealed by the Department of Health, Board of Pharmacy, LR 46:583 (April 2020).

§1509. Drug Distribution Control

A. - A.3.b.ii.(d). ...

iii. Records of drugs dispensed to patients for use outside the hospital shall be maintained in compliance with Section 1123 of this Part.

A.3.c. - A.3.e.iii. ...

B. Automated Medication Systems. A hospital pharmacy may use one or more automated medication systems in compliance with the provisions of Chapter 12 of this Part.

1. When the pharmacy uses an electronic product verification process as described in Section 1217 of this Part, and in the absence of any subsequent human intervention in

the automated drug product selection process, the pharmacist-in-charge may elect to forego manual checks of drug products selected in that manner, provided however, that such selection by the pharmacist-in-charge shall require an initial quality assurance validation followed by an ongoing quality review at intervals no greater than 90 days since the previous review, all conducted by a pharmacist.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2093 (October 2003), effective January 1, 2004, amended LR 40:2257 (November 2014), effective January 1, 2015, amended LR 41:1488 (August 2015), amended by Department of Health, Board of Pharmacy, LR 46:583 (April 2020).

§1525. Hospital Off-Site Satellite Pharmacy

A. - B.4. ...

5. When the hospital off-site satellite pharmacy is closed or there is no pharmacist on duty, other individuals shall not have access to the hospital off-site satellite pharmacy except for temporary absences as provided for in Chapter 11 of this Part.

6. - 6.b. ...

7. The hospital off-site satellite pharmacy shall comply with the recordkeeping provisions identified in Chapter 11 of this Part.

8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 39:1283 (May 2013), amended by Department of Health, Board of Pharmacy, LR 46:583 (April 2020).

§1527. Repealed

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 41:2147 (October 2015), repealed by the Department of Health, Board of Pharmacy, LR 46:583 (April 2020).

Chapter 17. Institutional Pharmacy

Subchapter A. General Requirements

§1701. Cross References

A. For all regulations that apply to permitted institutional pharmacies concerning pharmacy practices and records not specifically stated in this Chapter, refer to Chapter 11 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2094 (October 2003), effective January 1, 2004, amended by Department of Health, Board of Pharmacy, LR 46:583 (April 2020).

§1703. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section:

* * *

Long Term Care Facility—a nursing home, retirement center, mental care, or other facility or institution that provides extended health care to a residential patient, including but not limited to health care facilities licensed by the Department of Health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2094 (October 2003), effective January 1, 2004, amended by Department of Health, Board of Pharmacy, LR 46:583 (April 2020).

§1705. Institutional Pharmacy Permit

A. An institutional pharmacy permit shall be required to operate a pharmacy department located within an institutional facility, other than a hospital or penal institution, for residents or patients of that institutional facility. The permit shall be applied for, and renewed, in the manner prescribed by the board in Chapter 11 of this Part.

B. Pharmacies operated within a hospital shall be operated in accordance with Chapter 15 of this Part.

C. Pharmacies operated within a correctional center shall be operated in accordance with Chapter 18 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2095 (October 2003), effective January 1, 2004, amended LR 39:313 (February 2013), amended by Department of Health, Board of Pharmacy, LR 46:584 (April 2020).

Subchapter B. Emergency Drug Kits

§1711. Emergency Drug Kit Permit

A. - B.5. ...

6. The original EDK permit shall be readily retrievable at the provider pharmacy. A copy of the EDK permit shall be maintained in the room where the EDK is located.

C. - D. ...

E. Cancellation Prior to Renewal. In the event the facility or provider pharmacy elects to cancel the permit prior to the renewal date, the pharmacy shall relinquish the permit to the board office no later than 10 days following the date of cancellation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2095 (October 2003), effective January 1, 2004, amended by the Department of Health Board of Pharmacy, LR 46:584 (April 2020).

§1713. Emergency Drug Kit Requirements

A. - H. ...

I. Inspection.

1. The provider pharmacy shall inspect the EDK every 30 days, plus or minus five days. Proper documentation of these inspections, EDK inventory, and all records of use shall be maintained and made available to the board upon request.

I.2 - J.11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2096 (October 2003), effective January 1, 2004, amended LR 39:312 (February 2013), amended by Department of Health, Board of Pharmacy, LR 46:584 (April 2020).

Subchapter C. Drug Abuse Treatment Center Pharmacies

§1717. Cross References

A. For all regulations that apply to drug abuse treatment center pharmacies concerning pharmacy practices not specifically stated in this subchapter, refer to Chapter 11 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2096 (October 2003), effective January 1, 2004, amended by Department of Health, Board of Pharmacy, LR 46:584 (April 2020).

§1719. Definitions

A. As used in this Subchapter, the following terms shall have the meaning ascribed to them in this Section:

* * *

Drug Abuse Treatment Center—any establishment, facility, or institution, public or private, whether operated for profit or not, which primarily offers, or purports to offer, maintain, or operate facilities for the residential or outpatient diagnosis, care, treatment, or rehabilitation of two or more non-related individuals, who are patients as defined herein, excluding, however, any hospital or mental hospital otherwise licensed by the Department of Health.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2096 (October 2003), effective January 1, 2004, amended by Department of Health, Board of Pharmacy, LR 46:584 (April 2020).

§1721. Drug Abuse Treatment Center Pharmacy Permit

A. A drug abuse treatment center pharmacy permit shall be required to operate a pharmacy department located within a drug abuse treatment facility for patients of that facility. The permit shall be applied for, and renewed, in the manner prescribed by the board in Chapter 11 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2097 (October 2003), effective January 1, 2004, amended by Department of Health, Board of Pharmacy, LR 46:584 (April 2020).

§1725. Records and Reports of Drug Abuse Treatment Centers

A. All persons licensed by the Department of Health to operate a drug abuse treatment center and who possess a Drug Enforcement Administration (DEA) registration to purchase, possess, and use CDS shall keep the following records:

A.1. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2097 (October 2003), effective January 1, 2004, amended by Department of Health, Board of Pharmacy, LR 46:584 (April 2020).

Chapter 25. Prescriptions, Drugs, and Devices

Subchapter A. General Requirements

§2507. Veterinary Prescription Drugs

A. - B. ...

C. Labeling Requirements. Veterinary prescription drugs shall be dispensed in an appropriate container, and in addition to the labeling requirements in Chapter 11 of this Part, shall contain the following information:

C.1. - C.2. ...

D. Prescription Form Requirements. Prescriptions issued by a licensed veterinarian shall conform to Section 2511 of this Chapter.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2102 (October 2003), effective January 1, 2004, amended by Department of Health, Board of Pharmacy, LR 46:585 (April 2020).

Subchapter B. Prescriptions and Chart Orders

§2511. Prescriptions and Chart Orders

A. Definitions. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section:

Chart Order—a lawful order entered on the electronic or paper chart or medical record of an inpatient or resident of an institutional facility by a practitioner or his licensed healthcare designee for a drug or device and shall be considered a prescription drug order provided it contains the following:

1. full name of the patient;
2. date of issuance;
3. name, strength, and dosage form of the drug prescribed;
4. directions for use;
5. name of the prescribing practitioner;
6. the prescribing practitioner's written or electronic signature or the written or electronic signature of the practitioner's licensed healthcare designee, who shall be a licensed nurse, pharmacist, or physician practicing in a long-term care facility. The licensed healthcare designee shall be authorized to document a chart order in the patient's medical record on behalf of the prescribing practitioner pending the prescribing practitioner's signature, or to communicate a prescription to a pharmacy whether telephonically, by facsimile transmission, or electronically.

* * *

B. - C.5.d. ...

6. Chart orders and forms used by pharmacists to record telephoned or transferred prescriptions are exempt from the format requirements listed above.

D. - E.1. ...

F. Completion of Prescription Orders and Chart Orders. In the event a pharmacist receives a prescription order or chart order lacking certain required information, the pharmacist may consult with the prescriber to clarify the prescriber's intent. Following a consultation with the prescriber and the appropriate documentation thereof on the order:

1. A pharmacist may add the following data elements on the order:
 - a. patient's address; or

- b. drug dosage form. or
2. A pharmacist may record changes in the following data elements on the order:
 - a. patient's address;
 - b. drug strength;
 - c. quantity prescribed; or
 - d. directions for use.
3. A pharmacist shall never add or make changes to the following data elements on the order:
 - a. patient's name;
 - b. date of issue;
 - c. drug name (except for generic interchange as permitted by law); or
 - d. prescriber signature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2102 (October 2003), effective January 1, 2004, amended LR 41:98 (January 2015), amended LR 41:2147 (October 2015), amended by the Department of Health, Board of Pharmacy, LR 43:2162 (November 2017), amended by Department of Health, Board of Pharmacy, LR 46:585 (April 2020).

§2513. Receipt and Verification of Prescription Drug Orders and Chart Orders

A. Receipt of a Prescription.

1. Written. A pharmacist may receive and dispense a prescription drug order or chart order that has been written and/or signed by the practitioner.
2. Oral. A pharmacist may receive and dispense a prescription drug order or chart order that has been orally communicated by the practitioner when the order has been reduced to hard copy.
3. ...

B. Verification. Verification of the accuracy and authenticity of any prescription drug order or chart order is the responsibility of the pharmacist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2103 (October 2003), effective January 1, 2004, amended by Department of Health, Board of Pharmacy, LR 46:585 (April 2020).

§2519. Prescription Refills; Medication Synchronization and Refill Consolidation

A. - C.1. ...

2. With respect to prescriptions for controlled substances where refills have been authorized, pharmacists may utilize partial fills, as described in Section 2747.C.5 of this Part, but may not exceed the dispensing quantity noted on the original prescription.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2104 (October 2003), effective January 1, 2004, amended LR 33:1133 (June 2007), amended LR 42:1519 (September 2016), amended by the Department of Health, Board of Pharmacy, LR 46:585 (April 2020).

§2521. Emergency Refills

A. Using sound professional judgment, a pharmacist may refill adequate medication for a 72-hour regimen when an

emergency for medication has been adequately demonstrated and the prescribing practitioner is not available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2104 (October 2003), effective January 1, 2004, amended by the Department of Health, Board of Pharmacy, LR 46:585 (April 2020).

Malcolm J Broussard
Executive Director

2004#049

RULE

Department of Health Board of Pharmacy

Rulemaking Procedures (LAC 46:LIII.113)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has promulgated a new §113 to establish rules relative to rulemaking procedures. The Administrative Procedure Act requires agencies to establish rules describing a process for the public to petition the agency to adopt or amend rules. The new section of rules describes a process for the public to request the board to engage in rulemaking. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 1. Introduction

§113. Rulemaking Procedures

A. Petitions from Interested Persons

1. All petitions, whether requesting the adoption, amendment, or repeal of a rule shall be submitted in written form on plain white bond paper which is letter size (8 1/2" by 11"). The text shall be framed with a margin of at least one inch on all sides, shall have a pitch of not less than 10 characters per inch, and shall be double-spaced; provided however that quotations may be single-spaced as may other matter customarily presented in that manner.

2. The petition shall include the name, address, telephone number and email address of the petitioner as well as any organization the petitioner represents.

3. The petition shall explain the reason(s) for the requested action as well as what results would be expected from such action. The petition shall provide an estimate of the revenues and expenditures expected if the requested action is adopted,

4. The petition shall be considered by the board at its next regular meeting provided the complete petition is received at least 30 days prior to that meeting.

B. Board Initiatives

1. The board may refer topics to the Regulation Revision Committee, either during a board meeting or through the president in the interim between board meetings.

C. Administrative Procedure Act

1. When the board approves a regulatory proposal for rulemaking, the board shall comply with the Administrative Procedure Act at R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 46:586 (April 2020).

Malcolm J Broussard
Executive Director

2004#037

RULE

Department of Health Board of Pharmacy

Telepharmacy Dispensing Sites (LAC 46:LIII.2425)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended §2425 of its rules for telepharmacy dispensing sites. Two changes were made: the first has amended the eligibility criteria for such permits to require the nearest pharmacy to be at least 15 miles away instead of the current 20 miles, and the second requires the telepharmacy dispensing site to convert its permit to a regular community pharmacy permit in the event the dispensing activity averages more than 100 prescriptions per day. This provision replaces the current provision that requires the telepharmacy dispensing site to close permanently when another pharmacy opens within a 20-mile radius of the telepharmacy or to convert the telepharmacy permit to a regular community pharmacy permit whenever another regular pharmacy opens within the restricted radius. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 24. Limited Service Providers

Subchapter C. Telepharmacy Services

§2425. Telepharmacy Dispensing Site

A. General Requirements

1. At the time of its opening, there shall be no other pharmacies licensed by the board within 15 miles (driving distance) of the location of the telepharmacy dispensing site. This mileage restriction shall not apply if a demonstration of need is presented to the board and a waiver to the mileage restriction is deemed appropriate.

2. - 7. ...

B. Licensing Procedure

1. - 5. ...

6. In the event a telepharmacy dispensing site is dispensing more than 100 prescriptions per day based on a six-month average, the telepharmacy dispensing site shall convert its permit to a community pharmacy permit prior to

the expiration date of the telepharmacy dispensing site permit.

C. - E.4.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 41:2149 (October 2015), amended by the Department of Health, Board of Pharmacy, LR 46:586 (April 2020).

Malcolm J Broussard
Executive Director

2004#043

RULE

Department of Health Board of Pharmacy

Veterinary Hospital Pharmacy
(LAC 46:LIII.1503 and 1517)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended §§1503 and 1507 of its rules for hospital pharmacies. The amendments of Section 1503 have amended existing definitions of patients to include animals receiving care within a veterinary teaching hospital owned or operated by a public university in the state as well as the existing definition of hospital pharmacy to include a pharmacy located within a veterinary teaching hospital owned or operated by a public university in the state. The amendment of §1507 requires the pharmacist-in-charge of a pharmacy located within a veterinary teaching hospital owned or operated by a public university in the state to establish policies and procedures relative to authorized access to the pharmacy after hours. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 15. Hospital Pharmacy

§1503. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them in this Section:

Hospital Patient—a person receiving health care services within a hospital facility, or an animal receiving veterinary care within a veterinary teaching hospital owned or operated by a public university in this state.

Hospital Pharmacy—a pharmacy department permitted by the board and located in a hospital licensed pursuant to R.S. 40:2100 et seq. or in a veterinary teaching hospital owned or operated by a public university in this state. For the purposes of this chapter, a hospital pharmacy is one example of a primary care treatment modality pharmacy.

Registered Patients—a person receiving health care services within a hospital facility, or an animal receiving

veterinary care within a veterinary teaching hospital owned or operated by a public university in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2093 (October 2003), effective January 1, 2004, amended LR 33:1132 (June 2007), amended LR 39:1282 (May 2013), amended LR 40:2256 (November 2014), effective January 1, 2015, amended LR 41:2147 (October 2015), amended by the Department of Health, Board of Pharmacy, LR 46:587 (April 2020).

§1517. Pharmacist Absence/Drug Cabinet

A. Pharmacist Absence. In the absence of a licensed pharmacist, admittance to the pharmacy by unauthorized persons is prohibited. When the pharmacy is closed, a pharmacist shall be on emergency call.

1. Within a veterinary teaching hospital owned or operated by a public university in this state, the pharmacist-in-charge shall approve policies and procedures detailing the person(s) authorized to access the pharmacy after-hours.

B. - B.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 29:2093 (October 2003), effective January 1, 2004, amended by the Department of Health, Board of Pharmacy, LR 46:587 (April 2020).

Malcolm J Broussard
Executive Director

2004#044

RULE

Department of Health Bureau of Health Services Financing

Behavioral Health Service Providers
Licensing Standards
(LAC 48:I.5603, 5605, and 5606)

The Department of Health, Bureau of Health Services Financing has amended LAC 48:I.5603 and §5605 and adopted §5606 as authorized by R.S. 36:254 and R.S. 40:2151-2162. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 48

PUBLIC HEALTH-GENERAL

Part 1. General Administration

Subpart 3. Licensing

Chapter 56. Behavioral Health Service Providers

Subchapter A. General Provisions

§5603. Definitions

Facility Need Approval (FNA)—the letter of approval from the Office of Behavioral Health which is required for licensure applicants for opioid treatment programs prior to applying for a BHS provider license or the letter of approval from the Facility Need Review Committee within the

department which is required for licensure applicants for PSR or CPST services prior to applying for a BHS provider license.

* * *

Geographic Service Area—the geographic area and location that a BHS provider’s license allows services to be provided; for purposes of this licensing rule, geographic service area shall be as follows:

1. for providers operated by a human service district or authority, the geographic service area shall be the parishes and jurisdiction of the district or authority as defined in statute; and

2. for all other BHS providers, the geographic service area shall be the parish in which that provider has its business office and any contiguous parishes.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2162.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1682 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1380 (July 2017), LR 46:587 (April 2020).

Subchapter B. Licensing

§5605. General Provisions

A. - B. ...

C. A BHS provider license shall:

1. - 4. ...

5. be invalid if sold, assigned, donated or transferred, whether voluntary or involuntary;

6. be posted in a conspicuous place on the licensed premises at all times;

7. be valid for only one geographic service area; and

8. enable the BHS provider to render delineated behavioral health services within its geographic service area as defined in Section 5603.

D. - G.3....

4. The off-site shall operate within the same geographic service area, as defined in Section 5603, as the parent facility.

a. - b. Repealed.

G.5. - L.9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2162.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:1687 (September 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 43:1380 (July 2017), LR 46:588 (April 2020).

§5606. License Restrictions

A. A BHS provider shall provide only those services or modules:

1. specified on its license; and

2. only to clients residing in the provider’s designated geographic service area or at the provider’s licensed location.

B. A BHS provider may apply for a waiver from the Health Standards Section (HSS) to provide home or community services to a client residing outside of the provider’s designated geographic service area only under the following conditions:

1. A waiver may be granted by HSS if there is no other BHS provider in the client’s service area that is

licensed and that has the capacity to provide the required services to the client.

2. The provider shall submit a written waiver request to HSS.

3. The written waiver request shall be specific to one client and shall include the reasons for which the waiver is requested.

4. HSS shall approve or deny the waiver request within 30 days of receipt of the written waiver request, and shall provide written notice to the provider via mail or electronic transmission (email or facsimile).

5. The provider shall notify the client of HSS’s decision.

C. The provider shall not provide services to a client residing outside of the provider’s designated geographic service area unless the provider has received a written waiver request approval from HSS.

D. There is no appeal from a decision by HSS to deny a waiver request under this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2151-2162.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 46:588 (April 2020).

Stephen R. Russo, JD
Interim Secretary

2004#078

RULE

Department of Health Bureau of Health Services Financing

Medicaid Eligibility—Transfers of Assets (LAC 50:III.10905)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:III.10905 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 5. Financial Eligibility

Chapter 109. Transfers of Assets

§10905. Transfers

A. - B. ...

C. For transfers of assets for less than fair market value, the period of ineligibility for an individual in a long term care facility begins the later of the first day of the month after which the asset was transferred for less than fair market value or the date on which the individual is eligible for Medicaid and is receiving institutional level of care services (based on an approved application for such services) that, but for the imposition of the penalty, would be covered by Medicaid.

1. ...

D. For transfers of assets for less than fair market value, the period of ineligibility for an individual applying for, or

receiving, home and community-based services (HCBS) waiver services begins the later of the first day of the month after which the asset was transferred for less than fair market value or the date on which it is determined that the individual meets the financial and non-financial requirements for Medicaid eligibility and all other requirements for admission to an HCBS waiver are met.

E. - G.13.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:1411 (July 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 46:588 (April 2020).

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Stephen R. Russo, JD
Interim Secretary

2004#079

RULE

Department of Health Office for Citizens with Developmental Disabilities

Certified Medication Attendants—Qualifications (LAC 48:IX.907)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Louisiana Department of Health, Office for Citizens with Developmental Disabilities (LDH-OCDD), has amended LAC 48:IX Developmental Disabilities Services, Chapter 9 §907. Qualification of Applicants to be Medication Attendants. The Rule updates the Rule pursuant to ACT 45 of the 2019 Regular Legislative Session which amended R.S. 37:1025(A). This Rule is hereby adopted on the day of promulgation.

Title 48

Public Health—General

Part IX. Developmental Disabilities Services

Chapter 9. Guidelines for Certification of Medication Attendant

§907. Qualifications of Applicants to be Medication Attendants

A. Each person accepted to participate in the medication attendant course must be:

1. a citizen of the United States, a United States national, or an alien lawfully admitted for permanent residency in the United States.

2. employed in a facility operated by the Office for Citizens with Developmental Disabilities (OCDD), in a community home for persons with developmental disabilities funded through the Louisiana Department of Health (LDH) or the Department of Children and Family Services (DCFS), or in an intermediate care facility for people with developmental disabilities; or be a person who provides in-home Medicaid home and community-based services;

3. - 4. ...

5. free of communicable diseases and in suitable physical and emotional health to administer medications safely;

6. without a known record or history of drug abuse or record of conviction of a felony.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1021-1025.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 21:695 (July 1995), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 42:1527 (September 2016), amended by the Department of Health, Office for Citizens with Developmental Disabilities, LR 46:589 (April 2020).

Stephen R. Russo, JD
Interim Secretary

2004#065

RULE

Department of Health Office of Public Health

Louisiana Immunization Network/LINKS (LAC 51:II.101, 701, 703 and XXI.101)

Under the authority of R.S. 40:4, R.S. 40:5 and R.S. 40:31.15, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the state health officer, acting through the Louisiana Department of Health, Office of Public Health (LDH-OPH), has enacted and amended certain Sections of Chapter 7 (Public Health Immunization Requirements) of Part II (The Control of Diseases) of Title 51 (Public Health—Sanitary Code) of the Louisiana Administrative Code (LAC). This Rule implements certain amendments made to the Immunization Registry law (R.S. 40:31.11 et seq.) pursuant to Act 192 of the 2019 Regular Session. In particular, the newly adopted law authorizes LDH-OPH to maintain the immunization record of clients 21 years of age and older within the state's immunization registry, and generally requires that all vaccinations administered in the state of Louisiana be entered into the LINKS system. Act 192 of 2019 refers to the state's immunization registry as the Louisiana Immunization Network, also known as LINKS.

Act 192 of 2019 adopted a definition of an early learning center into the Immunization Registry law. In accordance with same, Section 101 (Definitions) of Chapter 1 (General Requirements) of Part XXI (Day Care Centers and Residential Facilities) of Title 51 of the LAC has been amended.

For the reasons set forth above, the following additions and amendments to LAC 51 are adopted. This Rule is hereby adopted on the day of promulgation.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part II. The Control of Diseases

Chapter 1. Disease Reporting Requirements

§101. Definitions

[formally paragraph 2:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part and all other

Parts which are adopted or may be adopted, are defined for the purposes thereof as follows.

* * *

Day Care Center—this term as defined in Part XXI.101.A of this code.

* * *

Louisiana Immunization Network (“LINKS”)—the official *Louisiana* immunization information registry system, authorized by R.S. 40:31.13 and maintained by the Louisiana Department of Health, Office of Public Health (LDH-OPH).

* * *

AUTHORITY NOTE: The first source of authority for promulgation of the sanitary code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with the specific provisions of R.S. 40:4(A)(2) and R.S. 40:5(1)(2) and (10).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1212 (June 2002), amended LR 32:1050 (June 2006), LR 34:2173 (October 2008), repromulgated LR 34:2582 (December 2008), LR 36:1014 (May 2010), amended by the Department of Health, Office of Public Health, amended LR 45:667 (May 2019), LR 46:589 (April 2020).

Chapter 7. Public Health Immunization Requirements

§701. Immunization Schedule

[formerly paragraph 2:001]

A. - B. ...

C. [formerly paragraph 2:025-1] Any person 18 years or under, admitted to any elementary and secondary school, kindergarten, college, university, proprietary school, vocational school, licensed day care center or residential facility shall have verification that the person has had all appropriate immunizations for age of the person according to the Louisiana immunization schedule unless presenting a written statement from a physician stating that the procedure is contraindicated for medical reasons, or a written dissent from parents. The operator of any elementary and secondary school, kindergarten, college, university, proprietary school, vocational school, licensed day care center or residential facility shall report to the state health officer through the health unit of the parish or municipality where such facility is located any case or suspected case of reportable disease. Health records, including immunization records, shall be made available during normal operating hours for inspection when requested by the state health officer. When an outbreak of a communicable disease occurs in an elementary and secondary school, kindergarten, college, university, proprietary school, vocational school, licensed day care center or residential facility, the operator of said facility shall comply with outbreak control procedures as directed by the state health officer.

D. [formerly paragraph 2:025-2] On or before October 1 of each year, the operator of each elementary and secondary school, kindergarten, college, university, proprietary school, vocational school, licensed day care center or residential facility enrolling or housing any person 18 years or under, inclusive but not limited to these listed facilities shall submit a preliminary immunization status report of all persons 18

years or under enrolled or housed as of that date. This compliance report shall be submitted utilizing the official Louisiana Immunization Network (“LINKS”) and shall include identifying information for each person 18 years or under, and for each dose of vaccine received since birth. Any person 18 years or under exempt from the immunization requirement shall also be identified, and the reason for exemption given on the report. After review of the report(s) by the state health officer or his or her designee, the elementary and secondary school, kindergarten, college, university, proprietary school, vocational school, licensed day care center or residential facility operator shall notify, on or before December 31 of each year, the parent or guardian of all enrolled or housed persons 18 years or under who are not compliant of the immunization requirements of §701.A and C of this Part.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2), R.S. 40:5(A) and R.S. 40:31.15. Also see R.S. 17:170, R.S. 22:1030, and R.S. 44:17.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1221 (June 2002), amended LR 38:1252 (May 2012), amended by the Department of Health, Office of Public Health, LR 45:670 (May 2019), amended LR 46:590 (April 2020).

§703. Mandatory Immunization Reporting

A. All immunization providers in the state of Louisiana shall be licensed or credentialed by their respective boards (to administer vaccines) and shall register and enroll in the Louisiana Immunization Network (“LINKS”).

B. All licensed or credentialed immunization providers shall comply with the rules and regulations outlined in the LINKS site enrollment agreement.

C. All licensed and credentialed immunization providers in Louisiana shall report all immunizations administered, regardless of patient age, and update patient demographics at each patient encounter to LINKS within one week of vaccine administration to the patient.

D. Boards that license healthcare providers authorized to administer vaccines shall provide an updated listing of all such authorized providers every calendar year to the OPH’s immunization program. The updated listings shall be received by the OPH’s immunization program no later than January 31 annually.

E. All providers licensed/credentialed to administered vaccines shall report all specified immunizations, antivirals, and other medications administered for all ages (within seven days of administration) to the LINKS system in preparation for or in response to a declared public health disaster or emergency event.

F. When reporting to the LINKS system, several pieces of information will be needed including; site and individual user demographic information; and consent to privacy and confidentiality compliance.

G. All of the information reported under Subsection F of this Section may be found on the LDH-OPH Immunization Program webpage identified as “https://lalinks.org/linksweb/LINKS_ENROLL.html“. All licensed or credentialed immunization providers shall comply with the rules, regulations and policies outlined within the LINKS information system.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2), R.S. 40:5(A) and R.S. 40:31.15. Also see R.S. 17:170, R.S. 22:1030 and R.S. 44:17.

HISTORICAL NOTE: Promulgated by the Department of Health, Office of Public Health, LR 46:590 (April 2020).

**Part XXI. Day Care Centers and Residential Facilities
Chapter 1. General Requirements**

§101. Definitions

[formerly paragraph 21:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this Part and all other Parts which are adopted or may be adopted, are defined for the purpose thereof as follows.

* * *

Child—a person who has not reached age 18 or otherwise been legally emancipated.

Child Day Care Center—any place or facility operated by any *institution*, political subdivision, society, agency, corporation, person or persons, or any other group for the purpose of providing care, supervision, and guidance of seven or more children, not including those related to the caregiver, unaccompanied by parent or legal custodian, on a regular basis for at least twelve and one-half hours in a continuous seven-day week. If a child day care center provides transportation or arranges for transportation to and from the center, either directly or by contract with third parties, all hours during which a child is being transported shall be included in calculating the hours of operation. A child day care center that remains open for more than twelve and one-half hours in a continuous seven-day week, and in which no individual child remains for more than twenty-four hours in one continuous stay shall be known as a full-time child day care center. A child day care center that remains open after 9 p.m. shall meet the regulations established for nighttime care.

Day Care Center—includes adult day care center, and early learning center.

Early Learning Center—any child day care center, early head start center, head start center, or stand-alone prekindergarten program not attached to a school.

* * *

Head Start and Early Head Start Programs—the federally-funded early childhood care and education programs that promote and teach school readiness to children ages *birth* to five years of age from low-income families and provide services in the areas of education, social services for families, nutrition, family engagement, health and mental health, as well as providing the physical plant and instructional staff members for such purposes.

* * *

Preschool—any child less than five years of age.

* * *

AUTHORITY NOTE: The first source of authority for promulgation of the sanitary code is in R.S. 36:258(B), with more particular provisions found in Parts 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with the specific provisions of R.S. 40:4(A)(10), R.S. 40:5, and R.S. 40:31.15.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1399 (June

2002), amended by the Department of Health, Office of Public Health, LR 46:591 (April 2020).

Jimmy Guidry, MD
State Health Officer
and
Stephen R. Russo, JD
Interim Secretary

2004#052

RULE

**Department of Public Safety and Corrections
Office of State Police**

Explosives (LAC 55:I.1503 and 1543)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., Act 315 of the 2018 Regular Session, and R.S. 40:1472.1 et seq., has amended rules related to the following: explosive license annual training requirements, which defines the term *annual refresher training* to clarify the time within which annual training must be completed, and explosive license drug testing requirements, which extends the time period for submitting an application to the department after the applicant's drug screen.

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 15. Explosives Code

Subchapter A. General

§1503. Definitions

* * *

Annual Refresher Training—a period of 13 calendar months.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), amended by the Department of Public Safety and Corrections, Office of State Police, LR 26:90 (January 2000), amended 34:2674 (December 2008), LR 36:550 (March 2010), LR 46:591 (April 2020).

§1543. Drug Testing Requirements

A. - C. ...

D. All holders of Louisiana Explosives Licenses shall be drug-screened within 120 hours of employment or initial application for, or renewal of, an explosives license. The drug testing required by this Paragraph shall meet the same testing standards as tests required by Subsection A of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984),

amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), amended by the Department of Public Safety and Corrections, Office of State Police, LR 26:91 (January 2000), LR 36:550 (March 2010), LR 46:591 (April 2020).

Lt. Colonel Jason Starnes
Chief Administrative Officer

2004#027

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Oysters—Leasing Policies and Procedures (LAC 76:VII.501, 502, 503, and 505)

The Wildlife and Fisheries Commission has amended LAC 76:VII.501, 503, and 505 modifying existing oyster lease policies and procedures and to enact LAC 76:VII.502 establishing joint leasing procedures for “dual claim” water bottom. Authority for adoption of the Rule is included in Part VII, Subpart D of Title 56 of the Louisiana Revised Statutes of 1950, Act 808 of the 2008 Regular Legislative Session, and Acts 570 and 595 of the 2016 Regular Legislative Session. This Rule is hereby adopted on the day of promulgation.

Title 76

Wildlife and Fisheries

Part VII. Fish and Other Aquatic Life

Chapter 5. Oysters

§501. Oyster Leases

A. Office Policies and Leasing Procedures

1. Office hours will be from 8 a.m. to 4:30 p.m., Monday through Friday excluding state holidays.

2. If leases overlap, the department will examine the leases involved and eliminate the overlap by maintaining the overlapped area as part of the earliest-issued lease, amending the other lease agreement(s) and lease plat(s) to subtract the overlapped area, and notifying the lessees of the action taken.

3. If examination of a lease indicates an acreage miscalculation, the department will amend the lease agreement and lease plat to state the correct acreage and notify the lessee of the action taken.

4. The oyster lease section will keep an indexing system to determine the acreage held by all oyster lessees. The oyster lease section will also receive and accept information related to the location of private oyster leases, provided that they are on state claimed water bottoms and were encumbered by a private oyster lease that was in effect and properly recorded as of February 1, 2016, and to the extent possible, the location of such leases will be made available to the public through inclusion as part of the existing indexing system and/or the geographic index system (“GIS”). Pursuant to R.S. 56:432, no single lessee may hold more than 2,500 acres under lease. Whoever is found to have leased more than the allotted amount by a court of competent jurisdiction shall forfeit all leases held on any water bottom of the state.

5. Oyster leases shall not be issued or renewed within the boundaries of a Wildlife Management Area or a designated public oyster seed ground or reservation. If extenuating circumstances are established and significant public interests would be furthered, the secretary has the discretion to grant exceptions to this prohibition on a case by case basis.

6. All oyster leases are subordinate to the rights or responsibilities of the state, any political subdivision of the state, the United States, or any agency or agent thereof, to take any action in furtherance of integrated coastal protection as defined in R.S. 49:214.2.

7. Subordination and Designation of Access Channels

a. With the exception of those oyster leases issued under authority of Phase I of the Oyster Lease Moratorium Lifting Priority (LAC 76:VII.505.A.2), any oyster lease initially applied for after July 1, 2016, or any renewal or judicial partition of such lease, is subordinate to the rights of any person:

i. to engage in any activity authorized by a coastal use permit, determination, coastal use authorization, or drilling permit (collectively, for purposes of this Section, a “permit”) for which the permit application was received prior to the date the application for the oyster lease was received. This subordination shall apply only within those areas as designated by the permit. If no area is delineated by the permit, then the default area shall be 75 feet from the centerline of a pipeline and 250 feet from the outside of a well, platform, shell pad, or facility;

ii. to operate, maintain, repair, replace, rehabilitate, or remove any pipeline, well, platform, shell pad, or facility on or impacting such an oyster lease where the structure was placed or constructed prior to September 20, 1980, or prior to the date the oyster lease was issued. This subordination applies only to areas 75 feet from the centerline of a pipeline and 250 feet from the outside of a well, platform, shell pad, or facility;

iii. to cross an oyster lease to access any activity, pipeline, well, platform, shell pad, or facility to which Clause A.7.a.i or A.7.a.ii of this Section applies, within a single access route properly designated and identified as follows:

(a) for any activity, pipeline, well, platform, shell pad, or facility, including removal of any of those structures, for which a single access channel is identified in the permit, the department shall recognize that as the sole access channel across any subordinate oyster lease;

(b) if multiple access channels are identified in the permit that cross any subordinate oyster lease, then the holder of the permit shall propose one of them as the sole access channel to the oyster lease section in writing, identifying the centerline of the access channel using the North American Datum 1983 state plane coordinates. Upon receiving the proposal, the oyster lease section shall notify each affected oyster lessee in writing. Upon receiving written notification, the oyster lessee shall have 30 calendar days to object in writing to the oyster lease section and show good cause why the department should not consent to the proposed designation. If an objection is not made within this time period, the department shall recognize the access

channel as proposed. If an objection is timely made, the department shall so notify all affected oyster lessees and the holder of the Permit in writing. The affected oyster lessees and the holder of the Permit shall have 30 days from issuance of this notice to propose a mutually agreeable access channel and submit it to the department, identifying the centerline using the North American Datum 1983 state plane coordinates, and the department shall recognize that as the sole access channel. Should the parties fail to reach a mutually agreeable resolution within this time period, the secretary shall have sole discretion to designate a sole access channel across the oyster lease from among those identified in the permit;

(c). for any activity, pipeline, well, platform, shell pad, or facility, including removal of any of those structures, that was placed or constructed before September 20, 1980 or was placed or constructed before the oyster lease was issued, but for which no access channel has been previously authorized, the holder of the Permit shall propose a single access channel in writing to the Oyster Lease Section, identifying its centerline using the North American Datum (NAD) 1983 state plane coordinates. Upon receiving the proposal, the oyster lease section shall notify each affected oyster lessee in writing. Upon receiving written notification, the oyster lessee shall have 30 calendar days to object in writing to the oyster lease section and show good cause why the department should not consent to the proposed designation. If an objection is not made during this time period, the department shall recognize the access channel as proposed. If an objection is timely made, the department shall so notify all affected oyster lessees and the holder of the permit in writing. The affected oyster lessees and the holder of the permit shall have 30 days from issuance of this notice to propose a mutually agreeable access channel and submit it to the department, identifying the centerline using the (NAD) 1983 state plane coordinates, and the department shall recognize that as the sole access channel. Should the parties fail to reach a mutually agreeable resolution within this time period, the secretary shall have sole discretion to designate a sole access channel across the oyster lease;

(d). any access channel designated across a subordinate oyster lease and accepted by the department shall be the area within 50 feet from the designated centerline of the channel;

(e). in addition, if a spoil area was previously identified in the permit for an access channel designated pursuant to this Subparagraph, this Subparagraph shall also apply to the same spoil area; however, such spoil area shall be limited to eighty feet in width adjacent to one side of the access channel.

8. All leases, all applications for leases by persons who have since died, and all property rights or interests acquired pursuant to such leases, made in conformity with the provisions of law and rule, are heritable and transferable. No such inheritance of transfer is effective with respect to the department unless and until an authentic act, judgment, or other valid instrument translatative of title to the lease, application, or property right or interest is registered in the oyster lease section. In the event any oyster lease has been inherited, assigned or transferred to a non-resident, that lease

shall not be renewed, pursuant to the residency requirements established in R.S. 56:422.

9. The fee schedule for all processes, as well as the purchase of extra maps, leases, plats or documents, is as follows.

Desktop Examination	\$260
New Ground Application	\$40
Renewal Application	\$30
Lease Transfer	\$10 per lease
Maps	\$10 per copy
Plats	\$5 per copy
Lease Documents	\$5 per copy
Other materials	\$1 per copy
Computations	
State Plane to Latitude/Longitude	\$2 per point
	\$5 per lease
	\$50 per USGS 24k section
GIS Data	\$200 for the dataset

B. Oyster Lease Applications

1. All applicants must appear in person at the oyster lease section office to apply for a new oyster lease.

a. All applicants must be either a bona fide resident as defined in R.S. 56:8(16)(a), an officer or registered agent of and applying on behalf of a firm composed of bona fide Louisiana residents, or an officer or registered agent of and applying on behalf of a corporation domiciled in Louisiana or organized under Louisiana law. Evidence of residency requirements for partnerships, corporations, LLCs, or other business entity and evidence of office-holding or agency shall be provided via certified copy of the filing, in good standing, with the Secretary of State.

b. Applicants shall be of the full age of majority (18 years) when applying for or renewing a lease, or provide power of attorney to agents, evidenced by authentic act, to act on their behalf.

c. Louisiana residency and age shall be evidenced by a valid Louisiana driver's license or state-issued identification.

2. An applicant will be required to outline on a department map the area for which he wishes to apply.

a. In the event of department error that results in an application being taken in an area where there is a prior application or lease that prevents the applicant from taking the full amount of acreage applied for in the area described, the following procedure shall apply. The applicant shall have the option of:

i. taking a lease of all available remaining acres within the originally described area; or

ii. taking a single lease for up to 110 percent of the number of acres originally applied for, outside of the originally described area but in the nearest unencumbered water bottom (a "revision"), provided that the oyster lease section approves the revision; or

iii. if neither of the above options is acceptable to the applicant, or if the oyster lease section does not approve a revision within 30 days after the applicant notifies the department that he has made that selection, the applicant may have his application cancelled and receive a full refund of the application fee.

b. The applicant shall have 30 days, from the date of notification of the conflict by certified letter to exercise

the above options and notify the department in writing of his selection. If the applicant does not notify the department of his selection within this time period, his application shall be cancelled and the department shall retain all fees.

c. Before a revision lease is issued under Clause 2.a.ii above, the applicant shall first submit a new application for the revised area. This application shall be identified as a "revision" application and shall indicate the original application by number for which it is being substituted. There will be no charge for the revision application.

d. All revisions shall follow this procedure. No lease shall proceed until the properly completed revision application has been submitted, accepted and approved. No revision lease is authorized without the above procedure being followed.

3. Except as provided in Act 595 of the 2016 Regular Legislative Session, where distances between oyster leases, or between oyster leases and the shoreline, are 200 feet or less, no applications or leases shall be taken or issued except that the intervening space may be shared equally by the existing leases or applicants if properly applied for and leased in accordance with existing policies and practices.

4. Water bottoms identified or nominated in lease applications shall be configured in the most compact configuration possible. No new lease, or portion thereof, shall be issued whose length exceeds its narrowest width by more than a factor of three except as follows:

a. between existing leases where all surrounding water bottoms are leased, or under application;

b. in bayous (or similar configurations, connections or cuts between bays, lakes and ponds, etc.), but provided that the water bottom may be leased subject to a subservience clause to reasonable navigation. However, no application will be allowed to include a narrow water body connecting two otherwise non-contiguous larger water bottom areas identified in the lease application, except with the approval of the administrator of the Fisheries Management Division.

5. Oyster lease applications shall be heritable, but not otherwise transferrable.

a. If an applicant dies before the secretary has determined whether to grant the application, the application may be maintained by the administrator of the applicant's estate, provided that proper proof of the death is presented to the department. The applicant's heir as to the application may also maintain the application, provided that the heir is otherwise eligible for an oyster lease and proper proof of death and heirship is provided to the department.

b. The administrator or heir shall appoint a representative to manage the application within 180 days of the applicant's death. If the department is not notified in writing of the appointment of a representative with the legal authority to maintain and manage the application within 180 days of the applicant's death, the application will be null and void regardless of when the department learns of the death, and automatically cancelled and all fees retained by the department.

c. If the lease is granted, it shall be granted in the name of the applicant's heir as to the application, as shown in the proof of heirship provided to the department.

6. Any application for a lease exceeding 1,000 acres will be denied.

7. No application will be accepted that would cause an applicant to exceed the maximum total of 2,500 acres under lease and application established in R.S. 56:432.

a. An applicant will be given 30 days to reduce the acreage contained in any application that would cause his lease acreage to exceed 2,500 acres. If the applicant does not amend the application to reduce the acreage accordingly within 30 days of notification of the exceedance, the application will automatically be cancelled and all fees retained by the department.

8. Once an application for a new lease is received by the department, it will be registered with the Oyster Lease Section and the department will post notice of the application for the lease, along with a copy of the application, map and general description on its website for 90 consecutive days. Concurrent with this 90-day notice period, the department will:

a. request the Office of State Lands to perform a reasonable investigation to determine whether the water bottom applied for is claimed by the state and susceptible to leasing. The department will deny the lease if the Office of State Lands does not determine that the water bottom applied for is claimed by the state and susceptible to leasing. Alternatively, if the Office of State Lands determines that only part of the water bottom applied for is claimed by the state and susceptible to leasing, the applicant may amend the application within 30 days of such denial to limit it to such areas, and the department will continue to process the application as amended. If the applicant does not notify the department of an amendment meeting all requirements within this time period, the application shall be cancelled and the department shall retain all fees;

b. submit any application for a new lease to the Coastal Protection and Restoration Authority to review and determine if the water bottom applied for is located in an area where a buffer zone may be necessary to protect sensitive and eroding lands, and if so to delineate the extent of that buffer zone. The department will deny the lease if the Coastal Protection and Restoration Authority determines that a buffer zone is needed on the water bottom applied for. Alternatively, the applicant may amend the application within thirty (30) days of notification of such denial to remove the area of the buffer zone, and the department will continue to process the application as amended. If the applicant does not notify the department of an amendment meeting all requirements within this time period, the application shall be cancelled and the department shall retain all fees;

c. send written notice of application for the lease to any private person who has previously submitted a claim of ownership of any part of the water bottom applied for to the Office of State Lands. The purpose of this measure is to provide additional notice. The posting of notice of application for lease on the department's website shall be the official notice. Any claim that the department failed to provide written notice, or that such notice was untimely shall not serve to negate an application for lease or extend the protest period.

9. Any private person claiming ownership of any part of the water bottom applied for may protest the issuance of a

state lease on the grounds that the protesting party owns the water bottom, as provided below.

a. The protest must be made in writing via certified mail delivered within the 90-day notice period, concurrently to the secretary through the oyster lease section, the administrator of the Office of State Lands, and the applicant.

b. The protest shall include proof of ownership, including but not limited to all information and documentation that the protesting party believes is relevant to the question of ownership.

c. Any right to protest issuance of the lease shall expire if not delivered within the 90-day notice period.

d. Pursuant to R.S. 56:427(F)(2), if protest is timely made, the administrator of the Office of State Lands shall review the state's claim to ownership of the contested water bottom and issue a preliminary determination to the secretary, the protesting party, and the lease applicant within 90 days of receiving the notice of protest, as to whether the state claims ownership of the contested water bottom. The administrator of the Office of State Lands may evaluate additional information after his preliminary determination, but shall issue a final determination of ownership within 180 days of receiving the notice of protest.

e. The final determination by the administrator of the Office of State Lands shall not be reviewable under the Administrative Procedure Act and is appealable only to the Nineteenth Judicial District Court. Any petition for judicial review of the determination made in accordance with this rule must be filed within 60 days after issuance of the determination.

f. Failure of a private claimant to make a protest has no effect on the right to claim ownership of the leased water bottom pursuant to R.S. 56:423(D).

10. If the administrator of the Office of State Lands finally determines that the state claims ownership of the water bottom applied for, and if the Coastal Protection and Restoration Authority determines that the water bottoms applied for is not essential for integrated coastal protection, and all other requirements are met, the secretary may, at his discretion, execute a lease for the water bottoms in the application, with any amendments as provided in these regulations.

11. An application will automatically be cancelled and all fees retained by the department for any of the following reasons:

a. if the applicant does not appear in person to execute a lease agreement within 60 days of issuance of the initial rental notice;

b. if the applicant fails to request a desktop examination from the department or submit a complete survey meeting department specifications within one year of the date of submission of the lease application;

c. if the administrator of the estate of a deceased applicant or heir as to the application fails to submit the appropriate paperwork naming a representative within 180 days of the named applicant's death, as provided above;

d. as otherwise provided in these regulations.

12. An applicant may withdraw an application and receive a full refund from the department by submitting a written request for withdrawal within the following timeframes:

a. within 120 days after the department posts notice of the application on its website;

b. within 30 days after issuance of the final determination by the administrator of the Office of State Lands regarding the state's claim to ownership of the water bottoms applied for; or

c. within 30 days after final judgment in any proceeding for judicial review of the final determination by the administrator of the Office of State Lands regarding the state's claim to ownership of the water bottoms applied for.

13. The department will deny any new lease application for any water bottoms located within 75 feet of the centerline of a pipeline that is located on purchased right-of-way. However, if the right-of-way is abandoned and returned to commerce, the secretary may then lease such water bottoms.

a. If only part of the water bottom applied for is within 75 feet of the centerline of a pipeline that is located on a purchased right-of-way, the applicant may amend the application to remove all other areas within 30 days of notification of such denial, and the department will continue to process the application as amended. If the applicant does not notify the department of an amendment meeting all requirements within this time period, his application shall be cancelled and the department shall retain all fees.

14. The department will deny any new lease application for any water bottoms located within the following areas:

a. water bottoms designated as a public oyster seed ground, reservation, or other public oyster harvest area;

b. water bottoms that are within the boundaries of a Wildlife Management Area; or

c. water bottoms or bodies designated as navigable channels or waterways by the United States Army Corps of Engineers, or within 50 feet of the permitted boundary of such channel or waterway.

d. If only part of the water bottom applied for is within one of the above-listed areas, the applicant may amend the application to remove such areas within 30 days of notification of such denial, and the department will continue to process the application as amended. If the applicant does not notify the department of an amendment meeting all requirements within this time period, his application shall be cancelled and the department shall retain all fees.

C. Renewals

1. The lessees of record for expiring leases have first right of renewal on expiring leases for successive periods of 15 years each, provided that the leased area is capable of supporting oyster populations.

2. All applicants must appear in person at the oyster lease section office to apply for an oyster lease renewal.

a. Applicants shall be the full age of majority (18 years) when applying for or renewing a lease, or provide power of attorney to agents, evidenced by authentic act, to act on their behalf.

b. Louisiana residency and age shall be evidenced by a valid Louisiana driver's license or state-issued identification.

c. All applicants must be either a bona fide resident as defined in R.S. 56:8(16)(a), an officer or registered agent of and applying on behalf of a firm composed of bona fide

Louisiana residents, or an officer or registered agent of and applying on behalf of a corporation domiciled in Louisiana or organized under Louisiana law. Evidence of residency requirements for partnerships, corporations, LLCs, or other business entity and evidence of office-holding or agency shall be provided via certified copy of the filing, in good standing, with the Secretary of State.

3. Leases, or portions of leases, will not be renewed if:

- the water bottom is determined by the department to be incapable of supporting oyster populations.

- the water bottom is designated as a public oyster seed ground, reservation, or other public oyster harvest area, unless specifically authorized by the secretary.

- the water bottom is within the boundaries of a Wildlife Management Area, unless specifically authorized by the secretary.

- the water bottom is within an area where the Coastal Protection and Restoration Authority determines is essential for integrated coastal protection or that a buffer zone is necessary to protect sensitive and eroding lands.

- the renewal applicant fails to meet the residency requirements required by law.

4. In the event a lease, or a portion of a lease, is not renewed for one of the foregoing reasons, the lessee of record at the time of cancellation or his designee has until July 1 of the year the lease was non-renewed to remove cultch or improvements made to the previously leased bottom, or a period of 90 days from receiving notice of non-renewal, whichever is longer. The secretary, at his discretion and upon a showing of good cause, may extend this time period by 90 additional days.

5. Upon renewal, the secretary may make such stipulations in the leases as he deems necessary and proper and may fully settle all disputes as to lease boundaries.

6. Except as provided in Act 595 of the 2016 Regular Legislative Session regarding Phase II of the oyster lease moratorium lifting process, "take-ups", expansions, reconfigurations, or other lease modifications shall not be considered as lease renewals. Any such application for previously unleased water bottoms shall be processed as a new lease application.

D. Lease Plat Requirements and Standards for Oyster Lease Surveys

1. Lease applicants can request the department to perform a desktop examination to produce a lease plat, or may hire a licensed surveyor to draft a lease plat.

- If a desktop examination is requested, an additional fee established by the commission may be charged.

- When drafting a lease plat depicting leaseable water bottom, the plat shall reference National Agricultural Imagery Program (NAIP) Imagery or any other relevant imagery with spatial resolution of at least one meter.

- Upon execution of the lease, the department shall provide three copies of the plat to the lessee of record.

2. If no desktop examination is requested by the applicant, the applicant shall furnish to the department a plat, certified by a licensed surveyor, of the water bottom applied for, within one year of receipt of the lease application by the department. A licensed surveyor shall be responsible for conducting any such survey, in accordance with these

regulations and the appropriate professional standards of practice. Failure to submit such a plat within the prescribed time period shall result in the automatic cancellation of the lease application and forfeiture of all application fees.

3. Each element of the description written on the application must be met by the plat required by R.S. 56:427(A). Additionally, the plat must conform completely to the map outline attached to and made a part of the application; provided, however, that deviations from the map outline (but not the written description) are permitted when such a deviation would not encroach on a neighboring lease or application. Such deviations are also permitted when the signed written consent of the lessee or applicant whose lease or application would be affected has been granted; in such cases, the affected lease or application will be amended to remove the overlapped area. In no case will an applicant be allowed to lease outside of his written description, except as provided in Clause B.2.a.ii of this Section.

- Plats drafted by a licensed surveyor are to be drawn on the form prescribed by the department and stamped. The plat shall remain in the custody of the department after receipt.

- An electronic CADD file, ESRI Shapefile, or other comparable file, as allowed by the department, of the boundary shall be provided to the department together with the plat and within the same time frame as the plat.

- In the event that a licensed surveyor relies on department GIS information, it shall be at his own risk.

- If a licensed surveyor repeatedly surveys over an existing lease, application or land area, that surveyor will be reported to the Louisiana State Board of Professional Engineers and Land Surveyors.

4. All corners of oyster lease plats shall be referenced to the Louisiana State Plane Coordinate System, south zone, NAD83, survey feet.

5. Plats shall illustrate any land, any existing structures or improvements within or adjacent to the application boundary.

6. The acreage indicated on all plats, even though calculated to the tenth or hundredth of an acre, shall be rounded up to the next highest acre.

- All land areas shall be excluded from the acreage calculation and the lease.

7. The application number and the name of the applicant shall be shown on all plats, as indicated on the original application.

8. Standard signs and symbols shall be used on the plat.

9. The department shall not be responsible for the cost of any private survey performed. Contracting a private survey is at the sole discretion and expense of the applicant.

10. Noncompliance with any requirement established by law or by these rules, after 30-day notification from the department by certified mail, shall result in cancellation of the application or lease and forfeiture of all fees to the department.

E. Oyster Lease Posting Requirements. In an effort to comply with R.S. 56:430(B), and to keep within the constraints of R.S. 14:63 dealing with criminal trespassing, the following oyster lease posting requirements apply to any actively harvested lease.

1. The lessee shall post the oyster lease and maintain signs along the boundaries of the property or area to be posted. These signs shall be written in the English language.

2. The signs shall have letters at least 3 inches in height and shall be of sufficient size and clarity to give notice to the public of the location and boundary of the oyster lease. The signs shall be placed and maintained at intervals of not more than 1,000 feet and shall be at least 3 to 12 feet above the water level.

3. At the main entrance to the lease and at no less than all corners along the boundary of said property, the lessee shall include his name, initials, or lease number.

4. In marsh areas and canals, posted signs shall also be placed at all major points of ingress and egress.

5. In open waters all signs are to be placed facing outward.

F. Policy Regarding the Splitting of Leases

1. No lease shall be split into non-contiguous pieces unless done so by the Coastal Protection Restoration Authority or by judicial decree.

2. If a lease is split by an acquisition by the Coastal Protection Restoration Authority or judicial decree, the department will issue alternative lease numbers for each discrete remainder lease area. An amended lease or leases for such remainder lease areas will be mailed to the lessee at the address on file with the department's oyster lease section.

3. An amended lease issued by the department because a lease was split pursuant to these rules shall not constitute a new lease for purposes of subordination under Act 595 of the 2016 Regular Legislative Session.

4. Splitting of oyster leases will be done with no fee charged to the lessee by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10), R.S. 56:422, R.S. 56:423, R.S. 56:425, R.S. 56:427, R.S. 56:428, Act 808 of the 2008 Regular Legislative Session, Acts 570 and 595 of the 2016 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 10:470 (June 1984), amended LR 12:844 (December 1986), LR 15:197 (March 1989), LR 17:808 (August 1991), LR 37:1622 (June 2011), LR 46:592 (April 2020).

§502. Joint Leasing of Water Bottoms

A.1. At any time, the department may enter into a joint lease agreement or agreements with a private claimant for the leasing of "dual claim" water bottoms to an applicant for the purposes of oyster cultivation. Such an agreement will be referred to as a dual claim agreement. A copy of each dual claim agreement will be maintained at the department's oyster lease section. The department, in consultation with the administrator of the Office of State Lands, and the private claimant, through the dual claim agreement, will designate water bottoms as "dual claim" and authorize the department to enter into dual claim oyster leases (as defined in Subsection B) with applicants on the "dual claim" water bottoms pursuant to Title 56, Part VII, Subpart D of the LRS of 1950. Except as provided in Subsection E of this Section, no dual claim agreement shall contain any restrictions on the applicant more burdensome than those in a traditional state-

issued oyster lease. A dual claim agreement shall remain in effect as to the "dual claim" water bottoms affected thereby:

a. for the entire term and to the extent of any state-issued oyster lease or renewal issued by the department thereon; or

b. until and to the extent that ownership of the "dual claim" water bottoms is determined by a final, unappealable judgment of a court of competent jurisdiction; or

c. until such time that no dual claim lease has been issued, and no claimed water bottom remains subject to the dual claim agreement by virtue of the exercise of withdrawal rights as provided in Subsection C of this Section.

2. Neither the existence nor the terms of any dual claim agreement or dual claim lease shall in any way be interpreted to indicate, determine, allocate, or otherwise affect ownership of any water bottoms or mineral rights beneath any water bottoms.

B. The term dual claim lease shall refer to an oyster lease issued by the department on "dual claim" water bottoms that are subject to a dual claim agreement, for which a private claimant holds record title, to which the state also makes an ownership claim as a sovereign navigable water bottom, and to which title has not been adjudicated to either party by a final, unappealable judgment of a court of competent jurisdiction.

C. Both the department and the private claimant shall have the right to withdraw any dual claim water bottoms or portions thereof from a dual claim agreement by and upon written notice to the other ("withdrawal notice"), provided that the department has not received an application for a dual claim lease on the water bottoms affected by the withdrawal notice at the time the withdrawal notice is received.

D. A dual claim lease shall be executed on a department lease form and shall be subject to the same rules and regulations that apply to traditional state-issued oyster leases, except the dual claim lease shall be titled as such, and shall include and be subject to the following clause:

The water bottoms that are the subject of this lease are committed to a dual claim agreement entered into by and between the Louisiana Department of Wildlife and Fisheries ("DWF") and ("private claimant"), as authorized by R.S. 56:425.1 (Act 570 of 2016). That dual claim agreement is on file with the DWF Oyster Lease Section. Lessee hereunder acknowledges that it has been provided a copy of the dual claim agreement in connection with lessee's application or request for the issuance of this oyster lease. This lease is subject to all terms and conditions of that dual claim agreement in effect on the effective date of this lease. Neither the existence nor the terms of any dual claim agreement or this lease shall in any way be interpreted to indicate, determine, allocate, or otherwise affect ownership of any water bottoms or mineral rights beneath any water bottoms.

E. Any state-issued oyster lease may be amended with the consent of the lessee, in the lessee's sole discretion, to:

1. incorporate the foregoing clause into the existing state-issued oyster lease; and

2. convert the state-issued oyster lease to a dual claim lease. Such conversion shall have no effect on the effective date of the lease or any rights, privileges, or obligations of the lease, except as modified by the clause established in Subsection D of this Section.

F. The department shall receive the same annual rental payment for a dual claim lease as established by R.S. 56:428 for any state-issued oyster lease. However, as a condition of the dual claim agreement, a private claimant may negotiate an additional private rental payment.

1. State-issued oyster leases in existence as of July 1, 2016 may be subject to a dual claim agreement, but the department shall not execute a dual claim agreement that requires private rental payment for such water bottoms.

2. Any such private payment shall be stated in or determinable from the dual claim agreement.

3. Under no circumstances may the department execute a dual claim agreement where the private rental rate exceeds the rate received by the department.

4. If a private rental payment is required, such payment shall be paid directly to the private claimant as lessor; the department shall neither receive nor be the repository for any such payment, nor have any right or responsibility in relation thereto.

5. The dual claim agreement may set forth deadlines and penalties for untimely payment or non-payment of the private payment, but no such deadlines or penalties may be more onerous in terms of deadlines, amount, or consequences than those applicable to state-issued oyster leases. If the dual claim agreement does not provide for such private deadlines or penalties, the deadlines, amount, and consequences for non-payment or late payment of the private payment shall be the same as those applicable to state-issued oyster leases. Regardless, private claimants shall have no responsibility to issue any notice of payment due or late. If a dual claim lease terminates due to non-payment of either the state or private payment, the dual claim lease shall immediately be terminated in its entirety and for all purposes, and the dual claim agreement party whose payment was unpaid shall immediately notify the other party and the lessee of the termination.

G. The department may not execute a dual claim agreement unless it provides that both the private claimant and the department are prohibited from entering into any oyster lease for water bottoms subject to the dual claim agreement, except through a dual claim lease; and that upon the effectiveness of any dual claim lease issued pursuant to the dual claim agreement, the dual claim lease shall replace and supersede in its entirety any then-existing oyster lease previously granted by the private claimant, but only as to acreage within the dual claim lease.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:425.1 and Act 570 of the 2016 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 46:597 (April 2020).

§503. Oyster Lease Rental Rate and Default for Non-Payment

A. The rental rate for oyster leases shall be as determined by law.

B. Policy to Comply with Laws Concerning Default in Payment of Rent on Oyster Leases (Noncompliance R.S. 56:429)

1. Annual rental payments shall be due January 1 each year. Annual rental notices will be mailed to lessees no later than December 1 of each year.

2. If a lessee has not paid the rent on or before January 1 of each year, or within 60 days thereafter, the lease shall

automatically terminate and be cancelled, and the lessee shall automatically forfeit all the works, improvements, betterment, and oysters on the previously leased water bottoms to the department. Such water bottoms shall then be open for lease in accordance with R.S. 56:425.

3. On or before February 1 each year, the department shall issue a written notice of delinquency by certified mail to each lessee who has not yet paid rent. This notice shall also be published on the department's website and in the official journal of the parish in which the rent-delinquent lease is located.

4. If a lease is forfeited due to failure to pay rent, the cancellation of that lease shall be made public by notice through publication in the official journal of the parish where the formerly leased water bottoms are located. This shall be done within 10 days of cancellation.

5. Any lessee who pays the rent on or after February 1 shall pay the rent due plus an additional 10 percent penalty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:428 and R.S. 56:429.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 5:468 (December 1979), amended LR 46:598 (April 2020).

§505. Oyster Lease Moratorium

A. A moratorium on the issuance of oyster leases for water bottoms not presently under lease is established. This includes a moratorium on the taking of oyster lease applications for water bottoms not presently under lease. This moratorium shall remain in place and may not be finally lifted until the following preferential rights have been claimed or forfeited in the following order. Upon the conclusion of the final oyster lease moratorium lifting phase, the secretary shall have the authority to fully and finally lift the moratorium. The secretary shall notify the Wildlife and Fisheries Commission of the lifting of the moratorium and post notice thereof on the department's website at least 30 days before the lifting becomes effective.

1. Phase 0: Processing Pre-Moratorium Lease Application Backlog

a. Applications pending at the time of the March 7, 2002 moratorium shall be processed. This includes all pending applications that have been held, along with all fees paid, but excludes applications as to which the applicant requested cancellation of the application and received a refund of fees.

b. In the event of the death of an applicant, the applicant's heirs or legatees shall so notify the department; and any lease ultimately issued shall issue only to persons placed in possession of the application by Judgment of Possession or to a court-appointed administrator or executor on behalf of a deceased applicant's estate.

c. Pending applications shall be subject to the application procedures established in R.S. 56:427(F) and LAC 76:VII.501.B.

d. The Office of State Lands shall make a determination of ownership for water bottoms applied for in any pending application prior to the execution of such lease.

e. Pending applications may be issued as a "dual claim lease" under LAC 76:VII.502 if ownership of the water bottom is contested.

f. No water bottoms applied for in a pending lease application shall be leased if such water bottoms were encumbered by a private oyster lease that was in effect and

properly recorded as of February 1, 2016 in the public records of the parish where the water bottoms are located, and at the time of the lease application, are encumbered by a private oyster lease, to the extent of the lease in effect on February 1, 2016. An applicant may amend the pending application to limit it to the remainder of the water bottoms that are not encumbered by the private oyster lease, or may withdraw the application and receive a full refund.

g. Any lease executed under this phase shall not be subject to the subordination conditions established in LAC 76:VII.501.A.7, as they were originally applied for prior to July 1, 2016.

h. In addition to the official notification of eligible applications the department shall post on the department's website a list of all applicants with pending oyster lease applications eligible for process under Phase 0.

2. Phase I: Right of First Refusal for Non-Renewed Avenal Leases

a. In coordination with the Coastal Protection and Restoration Authority, the department shall identify the leases that were not renewed since January 1, 1996, due to recommendations from the Department of Natural Resources that such leases would be in the operational or impact area of a planned integrated coastal protection project, and those leases whose lessee voluntarily failed to renew the lease between January 1, 1996 and October 19, 2004, and was a party to the class action suit entitled *Albert J. Avenal, Jr. et al. v. State of Louisiana and the Department of Natural Resources*.

b. The lessee of record at the time the original lease was not renewed shall have the right of first refusal for a new lease for the previously leased acreage.

c. The department shall publish a list of eligible leases on its website for 60 consecutive days, together with notice of the right of first refusal for new leases for the previously leased acreage and the deadline for applying for the new leases under this phase. The deadline for application for new leases under this phase shall be 60 days from when notice is first posted.

d. Any potentially eligible applicant who fails to apply during this 60-day application period forfeits all rights to the lease under this phase.

e. In addition to the official notification of eligible leases posted on the department's website, the department shall also send notice of the right of first refusal for new leases for the previously leased acreage and the deadline for applying for the new leases under this phase in writing via certified letter, to all lessees of record at the time of non-renewal. The purpose of this measure is to provide additional notice. The posting of the eligible leases on the department's website shall be the official notice. Any claim that the department failed to provide written notice via certified letter, or that such notice was untimely shall not serve to extend the application deadline or be sufficient cause to negate forfeiture of a lessee of record's right of refusal.

f. No water bottoms applied for in a pending lease application shall be leased if such water bottoms were encumbered by a private oyster lease that was in effect and properly recorded as of February 1, 2016 in the public records of the parish where the water bottoms are located, and at the time of the lease application, are encumbered by a private oyster lease, to the extent of the lease in effect on

February 1, 2016. An applicant may amend the pending application to limit it to the remainder of the water bottoms that are not encumbered by the private oyster lease, or may withdraw the application and receive a full refund.

g. Any lease executed under this phase shall not be subject to the subordination conditions established in LAC 76:VII.501.A.7 and R.S. 56:423(A)(2).

h. This phase of the moratorium lifting shall not commence until the department has finally acted upon all outstanding lease applications under Phase 0.

3. Phase II: Incorporation of Adjacent Water Bottoms

a. A lessee may expand any lease existing as of January 1, 2016 under this phase by amending the lease to incorporate immediately adjacent water bottom that is not leased.

b. Such expansion shall be limited to five hundred feet beyond the existing lease boundary, and only toward:

i. existing Louisiana coastline as shown on the last oyster lease survey plat on record;

ii. existing Louisiana coastline as of January 1, 2016, as shown by the 2015 NAIP imagery, located within 1,000 feet of the existing lease boundary; or

iii. another lease existing as of January 1, 2016, but only where there is 500 feet or less between the leases.

(a). Expansion between two leases separated by 500 feet or less shall be divided equally between the two applicants.

(b). Allocation for expansion between three or more applicants whose leases are separated by 500 feet or less must be agreed upon in writing signed by each of them under authentic act, submitted to the department within the application period. The area shall be divided according to this agreement. Failure to provide such an agreement within the application period results in a forfeiture of all rights to expansion under this phase for each applicant.

c. The department shall post on its website, for one hundred eighty consecutive days, notice of the availability of lease expansions and the deadline for applying for expansions under this phase.

d. The deadline for application under this phase shall be 180 days after notice is first posted.

e. If a lessee fails to apply for an expansion within this application period, he forfeits all rights to expansion under this phase.

f. Expansions issued under this phase shall be identified and issued as an extension to the existing lease and treated as a single lease, including the conditions and the term governing the existing lease. However, the expanded portion of the lease will be subject to the subordination conditions in LAC 76:VII.501.A.7 and R.S. 56:423(A)(2).

g. No water bottoms applied for in a pending lease application shall be leased if such water bottoms were encumbered by a private oyster lease that was in effect and properly recorded as of February 1, 2016 in the public records of the parish where the water bottoms are located, and at the time of the lease application, are encumbered by a private oyster lease, to the extent of the lease in effect on February 1, 2016. An applicant may amend the pending application to limit it to the remainder of the water bottoms that are not encumbered by the private oyster lease, or may withdraw the application and receive a full refund.

h. This phase of the moratorium lifting shall not begin before the time period for applying for leases under Phase I has expired.

4. Phase III: Right of First Refusal for Lessees under Private Lease

a. For any water bottom claimed by a private person that was under a private oyster lease issued by a private claimant with record title to the water bottom and recorded in the public records of the parish where it is located by February 1, 2016, the private lessee of that water bottom at the time of implementation of Phase III shall have the right of first refusal for a new state lease, including a dual claim lease, on any water bottom claimed by the state within the area of the existing private oyster lease.

b. The department shall post on its website, for 60 consecutive days, notice of the right of first refusal for new state leases, including dual claim leases, within the area of private oyster leases and the deadline for applying for new leases under this phase.

c. The deadline for application under this phase shall be 60 days after notice is first posted.

d. If a lessee fails to apply for a lease within this application period, he forfeits all rights to a state lease under this phase.

e. This phase is the only time where lessees may “convert” privately issued oyster leases located on state claimed water bottoms, to state-issued leases, including dual claim leases, under these regulations. Upon conclusion of Phase III, private leases on state-claimed water bottoms previously recognized as valid by Act 570 of the 2016 Regular Legislative Session will either have been converted to regular state leases or dual claimed leases, or they will cease to be recognized by the department. Continued harvest on state water bottoms after this phase without a state-issued lease, regardless of whether a privately issued oyster lease exists, will be subject to enforcement action. Any portions of privately issued oyster leases on water bottoms not claimed by the state at the time of Phase III applications will not be subject to or affected by Phase III, and will not be afforded any right of first refusal or other priority or preference.

f. This phase of the moratorium lifting shall not begin before the time period for applying for Phase II has expired.

5. Phase IV: First Lottery Phase

a. The department shall post on its website, for 60 consecutive days, notice of the oyster lease lottery and the deadline for entering the lottery.

b. The deadline for submitting an entry shall be 60 days after notice first posted.

c. Any person eligible for an oyster lease under R.S. 56:425 may submit a single lottery entry for an appointment to apply for a single lease under this phase.

i. Individuals may apply multiple times if each application is made on behalf of a separate juridical person. An individual applying on behalf of a non-natural person

must submit a certified copy of a filing with the Secretary of State showing that he is an officer or agent of the non-natural person.

d. If any person fails to submit a lottery entry within this application period, he forfeits all rights to a new lease under this phase.

e. Upon the conclusion of the application period, the oyster lease section shall enter each valid applicant into a random selection process using computer-generated randomization software to assign appointment priority.

f. Lottery participants will be given notice of their random priority number following the selection process.

g. The lottery entrants shall be assigned an appointment date and time with the oyster lease section based upon their priority. Appointment times will be assigned strictly by priority and shall not be negotiable.

h. The department shall send notification of the appointment date and time in writing to each lottery entrant at the address provided in the lottery application, at least 14 days prior to the date of the scheduled appointment. Additionally, the department shall maintain an electronic calendar of scheduled appointments and priority queue on its website.

i. A lottery entrant who fails to attend his scheduled appointment, for any reason whatsoever, shall be moved to the bottom of the priority list and his appointment shall be rescheduled accordingly. Failure to attend the rescheduled appointment will result in a forfeiture of all rights to a lease under this phase.

j. This phase of the moratorium lifting shall not begin before the time period for applying for leases under Phase III has expired.

6. Phase V: Second Lottery Phase

a. If after Phase IV, the secretary believes that a second lottery phase is warranted, then he may elect to conduct a second lottery.

b. This second lottery shall be subject to the same guidelines established by the commission governing the first lottery.

c. This phase of the moratorium lifting shall not begin before all applications for leases or expansions under Phases I, II, III, and IV have been finally received by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10), R.S. 56:422, R.S. 56:425, R.S. 56:429, R.S. 56:432.1, Act 808 of the 2008 Regular Legislative Session, Acts 570 and 595 of the 2016 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 10:948 (November 1984), amended LR 29:374 (March 2003), LR 33:1397 (July 2007), LR 46:598 (April 2020).

Jack Montoucet
Secretary

2004#064

Notices of Intent

NOTICE OF INTENT

Department of Civil Service Board of Ethics

Food and Drink Limit (LAC 52:I.Chapter 17)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Louisiana Board of Ethics, has initiated rulemaking procedures to make amendments to the Rules for the Board of Ethics to bring the rules into compliance with current statutory provisions and section 1115.1C of the Code of Governmental Ethics.

Title 52 ETHICS

Part I. Board of Ethics

Chapter 17. Code of Governmental Ethics

§1703. Food and Drink Limit

A. In accordance with R.S. 42:1115.1(C), beginning on July 1, 2020, the limit for food, drink or refreshments provided in R.S. 42:1115.1A and B is \$63.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1115.1.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 36:304 (February 2010), amended LR 36:1466 (July 2010), LR 38:1951 (August 2012), LR 39:3062 (November 2013) LR 40:1678 (September 2014), LR 41:1262 (July 2015), LR 44:1237 (July 2018), LR 45:868 (July 2019), LR 46:

Family Impact Statement

The proposed rule changes have no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule changes have no known impact on poverty, as described in R.S. 49:972.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session.

Small Business Statement

The proposed Rule should not have any known or adverse impact on small business as described in R.S. 49:956.6

Public Comments

Interested persons may direct their comments to Kathleen M. Allen, Louisiana Board of Ethics, P.O. Box 4368, Baton Rouge, LA 70821, telephone (225) 219-5600, until 4:45 p.m. on May 11, 2020.

Kathleen M. Allen
Ethics Administrator

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Food and Drink Limit

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated cost to implement the proposed rule change is \$320 in FY 19-20, which accounts for the cost to publish the Notice of Intent and the rule in the State Register. The proposed rule will create no other estimated implementation costs or savings to state or local governmental units. The proposed rule provides for raising the monetary limit on the receipt of food and drink by a public employee and public servant from sixty-two (\$62) dollars to sixty-three (\$63) dollars pursuant to Section 1115.1C of the Code of Governmental Ethics.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no anticipated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed action will affect all public employees and public servants by setting a standard monetary limit on the receipt of food and drink.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no anticipated effect on competition and employment.

Kristy Gary
Deputy Ethics Administrator
2004#074

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs and Criminal Investigations Division

2019 Annual Incorporation by Reference of
Certain Federal Air Quality Regulations
(LAC 33:III.505, 507, 2160, 3003,
5116, 5122, 5311, and 5901)(AQ381ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the air regulations, LAC 33:III.505, 507, 2160, 3003, 5116, 5122, 5311, and 5901 (Log # AQ381ft).

This Rule is identical to federal regulations found in 40 CFR Parts 51, Appendix M, 60, 61, 63, 68, 70.6, and 96, which are applicable in Louisiana. For more information regarding the federal requirement, contact Deidra Johnson at (225) 219-3985. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule incorporates by reference (IBR) into the Louisiana Administrative Code (LAC), Title 33, Part, Air, the following federal regulations included in the July 1, 2019, edition of the Code of Federal Regulations (CFR): 40 CFR Parts 51, Appendix M, 60, 61, 63, 68, 70.6(a) and 96. Any exception to the IBR is explicitly listed in the Rule.

The Rule updates the references to July 1, 2019, for Standard of Performance for New Stationary Sources, 40 CFR Part 60. It also updates the references to July 1, 2019, for the National Emission Standards for Hazardous Air Pollutants (NESHAP) and for NESHAP for Source Categories, 40 CFR Part 61 and 63. In order for Louisiana to maintain equivalency with federal regulations, certain regulations in the most current Code of Federal Regulations, July 1, 2019, must be adopted into the Louisiana Administrative Code (LAC). This rulemaking is also necessary to maintain delegation authority granted to Louisiana by the Environmental Protection Agency. The basis and rationale for this Rule are to mirror the federal regulations as they apply to Louisiana's affected sources. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33
ENVIRONMENTAL QUALITY**

Part III. Air

Chapter 5. Permit Procedures

§505. Acid Rain Program Permitting Requirements

A. The Acid Rain Program regulations, published in the *Code of Federal Regulations* at 40 CFR Part 72, July 1, 2019 are hereby incorporated by reference.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 21:678 (July 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2446 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2429, 2436 (October 2005), LR 32:1598 (September 2006), LR 33:2083 (October 2007) amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:746 (April 2018), LR 46:

§507. Part 70 Operating Permits Program

A. - B.1. ...

2. No part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC 33:III.517.B.1. No part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519, unless such additional information has been submitted within the time specified by the permitting authority. Permits issued to the part 70 source under this Section shall include the elements required by 40 CFR 70.6. The department hereby adopts and incorporates by reference the provisions of 40 CFR 70.6(a), July 1, 2019. Upon issuance of the permit, the part 70 source shall be operated in compliance with all terms and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be grounds for enforcement action; for permit termination,

revocation and reissuance, or revision; or for denial of a permit renewal application.

C. - J.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:1008 (May 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 32:808 (May 2006), LR 33:1619 (August 2007), LR 33:2083 (October 2007), LR 33:2630 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010), LR 37:2990 (October 2011), LR 38:1229 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1276 (May 2013), LR 40:1334 (July 2014), LR 41:1274 (July 2015), LR 42:1085 (July 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:746 (April 2018), LR 46:

Chapter 21. Control of Emission of Organic Compounds

Subchapter N. Method 43—Capture Efficiency Test Procedures

§2160. Procedures

A. Except as provided in Subsection C of this Section, the regulations at 40 CFR 51, appendix M, July 1, 2019, are hereby incorporated by reference.

B. - C.2.b.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1224 (August 2001), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1277 (May 2013), LR 40:1334 (July 2014), LR 41:1274 (July 2015), LR 42:1085 (July 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:747 (April 2018), LR 46:

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference

§3003. Incorporation by Reference of 40 Code of Federal Regulations (CFR) Part 60

A. Except for 40 CFR 60, subpart AAA, and as modified in this Section, standards of performance for new stationary sources, published in the *Code of Federal Regulations* at 40 CFR 60, July 1, 2019, are hereby incorporated by reference as they apply to the state of Louisiana.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 32:809 (May 2006), LR 32:1596 (September 2006), LR 33:1620 (August 2007), LR 33:2092 (October 2007), LR 33:2626 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2273 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, LR 38:2754 (November 2012), LR 39:1039 (April 2013), LR 39:1277 (May 2013), LR 40:1335 (July 2014), LR 40:2540 (December 2014), LR:41:1274 (July 2015), LR 42:1086 (July 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:747 (April 2018), LR 46:

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

A. Except as modified in this Section and specified below, national emission standards for hazardous air pollutants, published in the *Code of Federal Regulations* at 40 CFR 61, July 1, 2019, and specifically listed in the following table, are hereby incorporated by reference as they apply to sources in the state of Louisiana.

* * *

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1797 (October 1999), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2179 (October 2002), LR 29:699 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005), LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 33:2094 (October 2007), LR 34:1391 (July 2008), LR 35:1108 (June 2009), LR 36:2273 (October 2010), LR 37:2990 (October 2011), LR 38:1230 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1277 (May 2013), LR 40:1335 (July 2014), LR 41:1274 (July 2015), LR 42:1086 (July 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:747 (April 2018), LR 46:

Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

§5122. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Major Sources

A. Except as modified in this Section and specified below, national emission standards for hazardous air pollutants for source categories, published in the *Code of Federal Regulations* at 40 CFR 63, July 1, 2019, are hereby incorporated by reference as they apply to major sources in the state of Louisiana.

B. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1798 (October 1999), LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 29:1474 (August 2003), LR 30:1010 (May 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 31:3115 (December 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2095 (October 2007), LR 33:2627 (December 2007), LR 34:1392 (July 2008), LR 35:1108 (June 2009), LR 36:2273 (October 2010), LR 37:2991 (October 2011), LR 38:1231 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1278 (May 2013), LR 40:1335 (July 2014), LR:41:1275 (July 2015), LR 42:1086 (July 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:748 (April 2018), LR 46:

Chapter 53. Area Sources of Toxic Air Pollutants

Subchapter B. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources

§5311. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as it Applies to Area Sources

A. Except as modified in this Section and specified below, national emission standards for hazardous air pollutants for source categories, published in the *Code of Federal Regulations* at 40 CFR 63, July 1, 2019, are hereby incorporated by reference as they apply to area sources in the state of Louisiana.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998),

amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2096 (October 2007), LR 34:1392 (July 2008), LR 35:1108 (June 2009), LR 36:2274 (October 2010), LR 37:2991 (October 2011), LR 38:1231 (May 2012), amended by the Office of the Secretary, Legal Division, LR 38:2756 (November 2012), LR 39:1278 (May 2013), LR 40:1336 (July 2014), LR 41:1275 (July 2015), LR 42:1086 (July 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:748 (April 2018), LR 46:

Chapter 59. Chemical Accident Prevention and Minimization of Consequences

Subchapter A. General Provisions

§5901. Incorporation by Reference of Federal Regulations

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR 68, July 1, 2019.

B. - C.6. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998), LR 25:425 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:70 (January 2000), LR 26:2272 (October 2000), LR 28:463 (March 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:810 (May 2006), LR 33:1621 (August 2007), LR 34:1392 (July 2008), LR 35:1109 (June 2009), LR 36:2274 (October 2010), LR 37:2991 (October 2011), LR 38:1231 (May 2012), amended by the Office of the Secretary, Legal Division, LR 39:1278 (May 2013), LR 40:1336 (July 2014), LR 41:1275 (July 2015), LR 42:1086 (July 2016), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 44:748 (April 2018), LR 46:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This Rule has no known impact on small business as described in R.S. 49:965.2 - 965.8.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Hearing

A public hearing will be held on May 29, 2020, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given

below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ381ft. Such comments must be received no later than May 29, 2020, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to DEQ.Reg.Dev.Comments@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ381ft. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson
General Counsel

2004#062

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs and Criminal Investigations Division

Definition of Treatment
(LAC 33:V.2203)(HW128)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste Regulations, LAC 33:V.2203 (HW128).

This Rule will repeal the definition of treatment in Section 2203 of the Hazardous Waste Regulations. The U.S. EPA conducts periodic reviews of the Louisiana Hazardous Waste Regulations in order to verify that they are as stringent, or more stringent, than the equivalent federal regulations. This equivalency is a requirement of LDEQ maintaining an authorized hazardous waste regulatory program under the oversight of EPA. In response to a recent review, LDEQ was notified that the definition of treatment needed to be removed to maintain this equivalency with federal regulations. The basis and rationale for this Rule are to align with federal regulations as they apply to Louisiana hazardous waste. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report

regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental

Quality—Hazardous Waste

Chapter 22. Prohibitions on Land Disposal

Subchapter A. Land Disposal Restrictions

§2203. Definitions Applicable to This Chapter

A. When used in this Chapter the following terms have the meanings given below.

* * *

Treatment—Repealed.

* * *

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 15:378 (May 1989), amended LR 16:221 (March 1990), LR 16:1057 (December 1990), LR 17:658 (July 1991), LR 21:266 (March 1995), LR 22:22 (January 1996), amended by the Office of Waste Services, Hazardous Waste Division, LR 24:667 (April 1998), LR 25:442 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:280 (February 2000), amended by the Office of the Secretary, Legal Division, LR 43:1142 (June 2017), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 46:

Family Impact Statement

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

This Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

This Rule has no known impact on small business as described in R.S. 49:965.2 - 965.8.

Provider Impact Statement

This Rule has no known impact on providers as described in HCR 170 of 2014.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by HW128. Such comments must be received no later than June 5, 2020, at 4:30 p.m., and should be sent to Deidra Johnson, Attorney Supervisor, Office of the Secretary, Legal Affairs and Criminal Investigations Division, P.O. Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to DEQ.Reg.Dev.Comments@la.gov. Copies of these proposed regulations can be purchased by contacting the LDEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of HW128. These proposed regulations are available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on May 29, 2020, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals

with a disability need an accommodation in order to participate, contact Deidra Johnson at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

These proposed regulations are available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson

General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Definition of Treatment

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There is no impact on expenditures of the Department of Environmental Quality (DEQ) or local governmental units as a result of the rule change which repeals the definition of "treatment" in the Hazardous Waste regulations located at Title 33, Part V, Subpart 1, Chapter 22, Section 2203.

This rule change does not affect the definition of "treatment" in Title 33, Part V, Subpart 1, Chapter 1, Section 109.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on revenues of state or local governmental units as a result of the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no impact on anticipated costs and/or economic benefits to directly affected persons, small businesses, or non-governmental groups as a result of the proposed rule. Entities will still be required to adhere to the definition of "treatment" as defined in LAC 33:V.109.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment as a result of the rule change.

Herman Robinson
General Counsel
2004#061

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Dentistry

General Provisions (LAC 46:XXXIII.105)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950, et seq., the Dental Practice Act, R.S. 37:751, et seq., and particularly R.S. 37:760 (8), notice is hereby given that the Department

of Health, Board of Dentistry intends to amend LAC 46:XXXIII.105.

The Louisiana State Board of Dentistry is amending LAC 46:XXXIII.105 to allow residents in accredited non-LSU post-doctoral programs to obtain a restricted dental license rather than a full license. There are currently no post-doctoral dental programs in Louisiana other than LSU, but the board has been informed that there are plans to open one. This rule change will benefit residents in prospective residency programs who wish only to train in Louisiana and do not wish to have a full license in that it will save those residents some fees.

The rule change also does away with the requirement that LSU faculty members must switch from a restricted license to a full license within two years of being employed at LSU if the faculty member is eligible for a full license.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXXIII. Dental Health Profession

Chapter 1. General Provisions

§105. Restricted Licensees

A. All applicants for a restricted license must successfully complete the Louisiana State Board of Dentistry examination in jurisprudence within 60 days of receiving said license, except those licenses issued for less than one year.

B. All applicants for restricted licenses who are part of the faculty of the LSU system must submit with the restricted license application:

1. a certification from the LSU system showing that the applicant is or is expected to be a member of its faculty and verifying the competency of the applicant. The LSU system is responsible to notify the board as to any termination of employment of any faculty member or graduate student holding a restricted license; and

2. proof of completion of dental education;

a. if the applicant graduated from a dental school accredited by an accreditation agency that is recognized by the United States Department of Education, an original transcript showing such completion; or

b. if the applicant graduated from a dental school not accredited by an accredited agency that is recognized by the US Department of Education, an original or certified true copy of proof of completion of dental education in the form of a transcript or education evaluation report.

C. Restricted licenses may be issued to residents and/or graduate students in the LSU system or in other post-doctorate dental education programs in Louisiana that are accredited by an accredited agency that is recognized by the United States Department of Education, but those licenses are only valid during the time the applicant is a resident and/or graduate student in the LSU system or in the post-doctorate dental education program in which the resident/graduate student was enrolled when the restricted license was granted.

D. All applicants for restricted licenses who are enrolled in post-doctoral dental education programs must submit with the restricted license application:

1. a certification from the post-doctoral program showing that the applicant is or is expected to be enrolled in its program and verifying the competency of the applicant.

The post-doctoral program is responsible to notify the board as to any termination of employment of any graduate student holding a restricted license; and

2. proof of completion of dental education;

a. if the applicant graduated from a dental school accredited by an accreditation agency that is recognized by the United States Department of Education, an original transcript showing such completion; or

b. if the applicant graduated from a dental school not accredited by an accredited agency that is recognized by the US Department of Education, an original or certified true copy of proof of completion of dental education in the form of a transcript or education evaluation report.

E. Oral surgery residents who attend medical school as a requirement of their residency training may keep their restricted license active during medical school, but may only work in the hospital, or its affiliates sponsoring the residency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 21:571 (June 1995), amended LR 22:23 (January 1996), LR 23:1529 (November 1997), LR 26:1612 (August 2000), repromulgated LR 27:1893 (November 2001), amended LR 38:2770 (November 2012), LR 46:

Family Impact Statement

There should be no foreseeable family impact in regard to issues set forth in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

The proposed rulemaking will not have any foreseeable impact on small businesses.

Provider Impact Statement

The proposed rulemaking should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect of the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comment

Interested persons may submit written comments on these proposed rule changes to Arthur Hickham, Jr., Executive Director, Louisiana State Board of Dentistry, P.O. Box 5256, Baton Rouge, LA 70821. Written comments must be submitted to and received by the board within 20 days of the date of the publication of this notice. A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public

hearing must be made in writing and received by the Board within 20 days of the date of the publication of this notice.

Public Hearing

A request pursuant to R.S. 49:953 (A)(2) for oral presentation, argument, or public hearing must be in writing and received by the board within 20 days of the date of the publication of this notice.

Arthur Hickham, Jr.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **General Provisions**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will result in a one-time SGR expenditure of \$500 in FY 20 for the LA State Board of Dentistry (LSBD) to publish the notice of intent and proposed rule change in the Louisiana Register. The proposed rule change will not affect expenditures of local governmental units.

The proposed rule changes amend provisions for the issuance of restricted dental licenses by the LSBD.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will likely result in an indeterminable net SGR increase for the LSBD that is likely to be nominal. The rule revisions expand the ability for residents at non-LSU post-doctoral dental education programs to receive restricted licenses for educational purposes. The LSBD anticipates a post-doctoral program outside the auspices of the LSU system to open in the future that will initially be limited (ten or fewer applicants) with potential to expand. To the extent this occurs, each resident receiving a restricted license must remit \$200 for a full-year restricted license or \$100 for a six-month license. Because the number of new restricted licenses issued and the duration and timing of those licenses are unknown, the potential revenue increase is indeterminable.

The revenue increase associated with the additional restricted licensees may be offset from a potential revenue decrease associated with faculty at the LSU system no longer being required to attain full licensure if they meet the requirements, rather than practicing under a restricted license. It is unknown how many faculty this may affect, but to the extent it occurs, the LSBD will realize a reduction of \$240 per licensee (\$540 biennial dental license renewal fee minus \$150 annual restricted license fee for two years, or \$300). The total revenue decrease associated with this provision being removed is indeterminable and dependent upon LSU faculty choosing to utilize a restricted license rather than a full license.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will directly affect any post-doctoral dental education program other than LSU, allowing residents in non-LSU programs to obtain a restricted dental license rather than a full license. The restricted license is less expensive than a full license (see Part II, paragraph 2) and allows residents to practice dentistry only within the residency program, but will still result in residents paying \$200 for a yearlong license or \$100 for a six-month license. There are currently no post-doctoral dental programs in Louisiana other than LSU, but the Board has been informed that there are plans to open one in the near future. The proposed rule change will benefit residents in prospective residency programs who wish only to train in Louisiana and do not wish to have a full license, as it will result in a fee savings for residents, though they will

still have to remit the aforementioned fees for a restricted license.

The proposed rule change also repeals the requirement that LSU faculty members must switch from a restricted license to a full license within 2 years of being employed at LSU if the faculty member is eligible for a full license. This may result in a savings of license fees for some LSU faculty members, as the restricted license fee is lower than the full license fee.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition or employment.

Arthur Hickham, Jr.
Executive Director
2004#067

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Pharmacy

Automated Medication Systems (LAC 46:LIII.Chapter 12)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend several sections within Chapter 12 of its rules relative to automated medication systems. The proposed changes in §1201 remove terms already defined in the pharmacy practice act and add two new terms relative to remote dispensing systems. The proposed changes in §1203 provide clarity in the existing eligibility criteria and add two new locations: detention and correctional facilities for state and local governmental entities as well as unlicensed healthcare settings. Other changes in this section provide clarity to existing credentialing procedures. The proposed changes in §1205 relative to the pharmacist-in-charge's responsibilities include a removal for the 30-day notice requirement when a pharmacy ceases to supply the medications for an automated medication system, a removal of the requirement for the facility to notify prescribers their medication orders are not restricted to the limited number of medications stored in the automated medication system, and an addition for the monitoring of integrity of drug products stored in the device and documentation of drug product integrity. The proposed change in §1207 adds a provision for the retrospective review of medications removed from a non-profile driven system. The proposed change for §1209 is to repeal the itemized list of topics required for the system policies and procedures. The proposed changes for §1211 include a provision for devices to be placed in locations other than licensed healthcare settings as well as a requirement for documentation of security procedures. The proposed changes for recordkeeping requirements in §1213 are technical in nature. The proposed change for §1215 is to repeal the section, the content of which were transferred to the documentation section in §1211. The proposed change in §1217 relative to the stocking and restocking of drugs in devices is to reorganize the content for clarity. The information in §1219 relative to packaging and labeling of drugs placed in devices is found elsewhere in the Board's rules; the proposal is to repeal this redundant section. The

information on proof-of-use record in §1221 as well as wasted or discarded drugs in §1223 are already found in the earlier section on documentation in §1211; the proposal is repeal these two redundant sections. Since the Board already has statutory authority to conduct inspections, the proposed change for §1225 is to repeal this unnecessary section. The Board's rules for nonresident pharmacies already require such pharmacies to possess a permit to conduct business in the state; the proposal is to repeal this redundant §1227. The Board's authority relative to the assessment of penalties for violations of pharmacy law is found in the pharmacy practice act; the proposal is to repeal this unnecessary §1229. The requirement to read the chapter of rules jointly with the pharmacy law and board's rules is redundant; the proposal is to repeal the unnecessary §1231.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 12. Automated Medication Systems

§1201. Definitions

Healthcare Setting—a place where healthcare services are rendered on a routine basis by credentialed healthcare professionals.

Remote Dispensing System—a profile-driven automated medication dispensing system employing bidirectional audio-visual technology to facilitate pharmacist communication with a patient or caregiver.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, amended by the Department of Health, Board of Pharmacy, LR 46:

§1203. Automated Medication System Registration

A. Requirement for Registration

1. A pharmacy intending to supply medications for use within an automated medication system, as defined at R.S. 37:1164, shall obtain an automated medication system (AMS) registration prior to engaging in such activity.

2. The placement of medications within an automated medication system in the absence of an AMS registration shall substantiate a violation of R.S. 37:1241(A)(12) and shall subject the pharmacy to disciplinary action by the board.

3. A pharmacy intending to supply controlled substances for use within an automated medication system shall obtain a controlled dangerous substance (CDS) license in addition to the AMS registration. The pharmacy shall also obtain a federal registration from the U.S. Drug Enforcement Administration (DEA) prior to placing controlled substances within the automated medication system.

4. The placement of controlled substances within an automated medication system in the absence of an AMS registration, CDS license, and DEA registration shall substantiate a violation of R.S. 37:1241(A)(12) and R.S. 40:973 and shall subject the pharmacy to disciplinary action by the board.

5. The operation of a remote dispensing system without an AMS registration shall substantiate a violation of R.S. 37:1241(A)(12) and shall subject the pharmacy to disciplinary action by the board.

B. Eligibility for Registration

1. A pharmacy intending to supply medications for use within an automated medication system may do so when the AMS is placed at any of the following locations:

a. within a facility in possession of a controlled dangerous substance license issued by the board;

b. within a hospital or other institutional facility in possession of an operating license issued by the state department of health;

c. within a detention or correctional facility operated by or under contract with the state department of public safety and corrections or other local governmental entity.

2. A pharmacy may operate a remote dispensing system when the system is placed within a healthcare setting where the pharmacist-in-charge can ensure the security and environmental integrity of the medications and devices placed within the system as well as the security and confidentiality of the protected health information used therein.

C. Application for Initial Issuance of Registration

1. The board shall develop an application form suitable for the AMS registration. The board may revise that application on its own initiative in order to collect the information it deems necessary to properly evaluate an applicant.

2. The application shall be accompanied by payment of the registration fee authorized by R.S. 37:1184.

3. The board shall not process applications received by facsimile, or that are incomplete, or submitted with the incorrect fee.

4. The submission of a false or fraudulent application shall substantiate a violation of R.S. 37:1241(A)(2) and shall subject the applicant to disciplinary action by the board.

5. When determined appropriate by the board, the applicant may be required to meet with a committee or agent of the board prior to the issuance of the registration.

D. Maintenance of Registration

1. A registration shall be valid only for the pharmacy to which it was issued and the physical location of the AMS identified on the application. The registration shall not be subject to sale, assignment or other transfer, voluntary or involuntary, nor shall the registration be valid for any premises other than the physical location for which it was issued.

2. A duplicate or replacement registration shall be issued upon the written request of the owner of the registration and payment of the fee authorized by R.S. 37:1184. A duplicate or replacement registration shall be marked as such, and it shall not serve or be used as an additional or second registration.

3. In the event a pharmacy intends to relocate an automated medication system to a different address, the pharmacy shall notify the board of its intent to do so, providing both current and new addresses. A change in business address may require an inspection by the board or its designee.

E. Application for Renewal of Registration

1. The pharmacy shall complete an application for the renewal of the registration and submit it to the board prior to the expiration date of the registration. The application shall be accompanied by the fee authorized by R.S. 37:1184.

2. The board shall not process applications received by facsimile, or that are incomplete, or submitted with the incorrect fee.

3. An AMS registration not renewed by the expiration date shall be classified as expired. The operation of an automated medication system with an expired registration shall substantiate a violation of R.S. 37:1241(A)(12) and shall subject the pharmacy to disciplinary action by the board.

F. Relinquishment of Registration

1. In the event a pharmacy intends to cease supplying medications or devices to an automated medication system, it shall relinquish the registration to the board no later than 10 days following the effective date of such decision.

2. A pharmacy may not transfer a registration to another pharmacy.

G. Application for Reinstatement of Suspended or Revoked Registration

1. An application for the reinstatement of an AMS registration previously suspended or revoked by the board may only be approved in compliance with R.S. 37:1249.

2. The applicant shall complete an application form for this specific purpose supplied by the board and shall attach any documentation requested by the board and fees identified in R.S. 37:1184.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1184.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, amended LR 38:1235 (May 2012), amended by the Department of Health, Board of Pharmacy, LR 46:

§1205. Pharmacist-in-Charge Responsibilities

A. The pharmacist-in-charge shall be a Louisiana-licensed pharmacist with the following responsibilities:

1. assuring that the system is in good working order and accurately provides the correct strength, dosage form, and quantity of the drug prescribed while maintaining appropriate recordkeeping and security safeguards.

2. establishment of a quality assurance program prior to implementation of a system and the supervision of an ongoing quality assurance program that monitors appropriate use and performance of a system, which is evidenced by policies and procedures developed by the pharmacist-in-charge.

3. define access to the system in policy and procedures of the pharmacy, in compliance with state and federal regulations.

4. assign, discontinue, or change access to the system.

5. ensure that access to the medications complies with state and federal regulations as applicable.

6. ensure that the system is stocked and restocked accurately and in accordance with established pharmacy policies and procedures.

7. maintain or have access to all records of documentation specified in this Chapter for two years or as otherwise required by law.

8. continuous monitoring and documentation of temperature in the drug storage areas including a mechanism to alert the pharmacist when defined parameters are out of range as well as an action plan to address such excursions. A pharmacy's failure to document the integrity of the drug supply or remediate for excursions as appropriate shall

substantiate a violation of R.S. 37:1241(A)(18) and shall subject the pharmacy to disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, amended by the Department of Health, Board of Pharmacy, LR 46:

§1207. Pharmacist Review

A. System shall be used in settings that ensure medication orders are reviewed by a pharmacist prior to administration and in accordance with established policies and procedures and good pharmacy practice. A policy and procedure shall be adopted for non-profile driven systems to retrospectively review medications orders which cannot be reviewed prior to medication administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, amended by the Department of Health, Board of Pharmacy, LR 46:

§1209. Policies and Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, repealed by the Department of Health, Board of Pharmacy, LR 46:

§1211. Documentation

A. Documentation as to type of equipment, serial number, content, policies and procedures and location shall be maintained in the pharmacy for review by the board. Such documentation shall include, but is not limited to:

1. name, address, and permit number of the pharmacy and the location where the system is operational;

2. manufacturer's name and model;

3. quality assurance policies and procedures to determine continued appropriate use and performance of the system;

4. policies and procedures for system operation, safety, security, accuracy, patient confidentiality, access, controlled substances, data retention, definitions, downtime procedures, emergency or first dose procedures, inspection, installation requirements, maintenance security, quality assurance, medication inventory, staff education and training, system set-up, and malfunction procedures; and

5. security procedures sufficient to prevent unauthorized access or use, prevent the illegal use or disclosure of protected health information, and comply with any applicable federal or state regulations.

6. a current copy of all pharmacy policies and procedures related to the use of the system shall be maintained at all locations where the system is being used.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, amended by the Department of Health, Board of Pharmacy, LR 46:

§1213. Records

A. Records and electronic data kept by the system shall meet the following requirements:

1. all events involving access to the contents of the system shall be recorded electronically;

2. in the event controlled substances are stored in the system, the records shall include the positive identification (as defined in §1119 of this Part) of the personnel retrieving and administering the controlled substances to the patient;

3. these internal records shall be maintained for one year by the pharmacist-in-charge and shall be readily available to the board. Such records shall include:

- a. identity of system accessed;
- b. identification of the individual accessing the system;
- c. type of transaction;
- d. name, strength, dosage form, and quantity of the drug accessed;
- e. name or identification number of the patient for whom the drug was ordered;
- f. identification of the certified pharmacy technician or pharmacist stocking or restocking the medications in the system; and
- g. such additional information as the pharmacist-in-charge may deem necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, amended LR 40:2256 (November 2014), effective January 1, 2015, amended by the Department of Health, Board of Pharmacy, LR 46:

§1215. Security System(s)

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, repealed by the Department of Health, Board of Pharmacy, LR 46:

§1217. Stocking and Restocking

A. The stocking and restocking of medications and devices within an automated medication system shall be performed by a pharmacist, or in the alternative, a pharmacy intern, pharmacy technician, or pharmacy technician candidate under the supervision of a pharmacist.

B. When the pharmacy employs electronic product verification procedures as described within this Section, the stocking and restocking of medications and devices within an automated medication system may be performed by other personnel approved by the pharmacist-in-charge.

1. A bar code verification, electronic verification, or similar verification process which prohibits any human intervention following pharmacist verification of the product may be utilized to assure the correct selection of drugs to be placed into an automated medication system.

2. The use of a bar code, electronic verification, or similar verification process shall require an initial quality assurance validation followed by ongoing quality assurance reviews at intervals no greater than 90 days since the previous review, all conducted by a pharmacist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000),

effective July 1, 2000, amended LR 41:1488 (August 2015), amended by the Department of Health, Board of Pharmacy, LR 46:

§1219. Packaging and Labeling

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, repealed by the Department of Health, Board of Pharmacy, LR 46:

§1221. Proof of Use

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, repealed by the Department of Health, Board of Pharmacy, LR 46:

§1223. Wasted, Discarded, or Unused Medications

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, repealed by the Department of Health, Board of Pharmacy, LR 46:

§1225. Inspection

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, repealed by the Department of Health, Board of Pharmacy, LR 46:

§1227. Out-of-State Pharmacies

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, repealed by the Department of Health, Board of Pharmacy, LR 46:

§1229. Violations; Penalties

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, repealed by the Department of Health, Board of Pharmacy, LR 46:

§1231. Revised Statutes and Louisiana Administrative Code

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.A.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 26:1271 (June 2000), effective July 1, 2000, repealed by the Department of Health, Board of Pharmacy, LR 46:

Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency Rule.

1. The Effect on the Stability of the Family. The proposed Rule amendment will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed Rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed Rule amendment will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed Rule amendment will have no effect on family earnings or family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed Rule amendment will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed Rule amendment will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. The proposed Rule amendment will have no effect on household income, assets, or financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed Rule amendment will have no effect on early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. The proposed Rule amendment will have no effect on employment or workforce development.

4. The Effect on Taxes and Tax Credits. The proposed Rule amendment will have no effect on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. The proposed Rule amendment will have no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Analysis

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. The proposed amendment does not change the current compliance or reporting requirements for small businesses.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. The proposed amendment does not change the current schedule or deadline for compliance or reporting requirements.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. The proposed amendment does not change the current compliance or reporting requirements for small businesses.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. The proposed amendment adds one additional operational standard relative to the monitoring of temperature of the drug storage areas; there are economical options available to small businesses.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed Rule amendment will have no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed Rule amendment will have no effect on the cost to the provider to provide the same level of service.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of service. The proposed Rule amendment will have no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to Malcolm J Broussard, Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding the proposed Rule amendment.

Public Hearing

A public hearing to solicit comments and testimony on the proposed Rule amendment is scheduled for 9 a.m. on Friday, May 29, 2020. During the hearing, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for the receipt of all comments is 12 p.m. noon that same day. To request reasonable accommodations for persons with disabilities, please call the board office at 225.925.6496.

Malcolm J Broussard
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Automated Medication Systems

NOTICE OF INTENT

**Department of Health
Board of Pharmacy**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will require the Louisiana Board of Pharmacy (LBP) to publish the proposed and final rules in the state register, resulting in one-time costs of \$2,000 in FY 20 and \$2,000 in FY 21. There will be no additional expenditures or cost savings for LBP.

The proposed rule change expands the eligibility criteria for the automated medication system (AMS) registration which is a credential issued by LBP to pharmacies placing medications in such devices housed in locations other than the pharmacy itself. The proposed rule change would authorize a pharmacy to place an AMS at a correctional facility operated by or under contract with the Dept. of Public Safety & Corrections or a local governmental entity. To the extent a correctional facility operated by a state or local governmental entity elects to house an AMS provided by their pharmacy, it is possible the facility may realize a savings in the total cost of medications needed for offenders served by that facility. The amount of the savings would depend on the number of offenders, the number, type, and cost of medications stored in the device, and the duration of each offender's drug therapy regimen.

To the extent a state or local governmental entity operates a pharmacy which elects to utilize an AMS, the proposed rule change will require the pharmacist-in-charge to implement a continuous monitoring and documentation of temperature in the drug storage areas including a mechanism to alert the pharmacist when defined parameters are out of range as well as an action plan to address such circumstances. Some AMS devices include such monitoring and documentation features and some do not. To the extent the pharmacy elects to use a system which does not include such features, the pharmacy will need to purchase additional monitoring equipment.

The proposed rule change makes a number of technical changes and repeals a number of redundant and unnecessary provisions.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

To the extent a pharmacy elects to place an AMS in a healthcare setting and supply the medications for use in the system, the proposed rule change will expand the types of locations where such devices can be placed. The proposed rule changes allow for AMS devices to be placed in state and local correctional facilities and unlicensed healthcare settings. Systems are available in a variety of configurations and the prices vary considerably. The requirement for temperature monitoring of the drug storage areas may or may not increase the total cost of operating a system. The use of such devices could reduce the amount of drug wastage in the location housing the system, which could lower the total cost of drugs used by the facility housing the system.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition or employment.

Malcolm Broussard
Executive Director
2004#072

Evan Brasseaux
Staff Director
Legislative Fiscal Office

Marijuana Pharmacy (LAC 46:LIII.2441, 2443, and 2451)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend three sections within Chapter 24 of its rules relative to marijuana pharmacy. The proposed change in §2441 repeals the definition of marijuana which has changed since the rule was promulgated in 2017. The proposed change in §2443 repeals the limitation that a single container hold no more than a one-month supply of marijuana. The proposed change in §2451 removes the limitation that marijuana pharmacies may sell only marijuana products, over-the-counter medications, durable medical equipment, and other retail items.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 24. Limited Service Providers

Subchapter E. Marijuana Pharmacy

§2441. Definitions

A. As used in this Subchapter, the following terms shall have the meaning ascribed to them in this Section:

* * *

Marijuana—Repealed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1538 (August 2017), amended LR 45:1473 (October 2019), amended LR 46:

§2443. Marijuana Products

A. - D.1.c. ...

d. Repealed.

D.1.e - E.4.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1540 (August 2017), amended LR 45:1473 (October 2019), amended LR 46:

§2451. Operation of Marijuana Pharmacy

A. - M. ...

N. No marijuana pharmacy shall acquire, possess or dispense any controlled substance other than medical marijuana products authorized by R.S. 40:1046.

O. - U. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1547 (August 2017), amended LR 46:

Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be

published in the *Louisiana Register* with the proposed agency Rule.

1. The Effect on the Stability of the Family. The proposed rule change will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed rule change will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed rule change will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed rule change will have no effect on family earnings or family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed rule change will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed rule change will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed rule.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. The proposed rule change will have no effect on household income, assets, or financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed rule change will have no effect on early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. To the extent a marijuana pharmacy elects to dispense an expanded offering of prescription drugs, the proposed rule change may improve the economic viability of the marijuana pharmacy which could improve employment opportunities at that pharmacy.

4. The Effect on Taxes and Tax Credits. The proposed rule change will have no effect on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. The proposed rule change will have no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Analysis

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. The proposed rule change does not change the current compliance or reporting requirements for small businesses.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. The proposed rule change does not change the current schedule or deadline for compliance or reporting requirements.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. The proposed rule change does not change the current compliance or reporting requirements for small businesses.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. The proposed rule change will repeal an operational standard which limits the type of products that may be sold at a marijuana pharmacy, which may improve the economic viability of the marijuana pharmacy.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed rule change will have no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed rule change will have no effect on the cost to the provider to provide the same level of service.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of service. The proposed rule change will have no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to Malcolm J Broussard, Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding the proposed Rule amendment.

Public Hearing

A public hearing to solicit comments and testimony on the proposed Rule amendment is scheduled for 9 a.m. on Friday, May 29, 2020. During the hearing, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for the receipt of all comments is 12:00 noon that same day. To

request reasonable accommodations for persons with disabilities, please call the board office at 225.925.6496.

Malcolm J Broussard
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Marijuana Pharmacy**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will require the Louisiana Board of Pharmacy (LBP) to publish the proposed and final rules in the state register, resulting in a one-time expense of \$1,000 in FY 20 and \$1,000 in FY 21. There will be no additional expenditures or cost savings for LBP or other state or local governmental units.

The proposed rule change repeals the limitation that a single container hold no more than a one-month supply of marijuana. The proposed rule change also repeals the limitation that a marijuana pharmacy may not sell prescription drugs, allowing marijuana pharmacies to sell prescription drugs that are not controlled substances.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will allow the pharmacist at a marijuana pharmacy to dispense a single container that may contain more or less than a one-month supply of marijuana. In addition, marijuana pharmacies will be allowed to dispense prescription drugs that are not classified as controlled substances. That allowance may improve the economic viability of marijuana pharmacies, which are currently restricted to marijuana products, over-the-counter medications, and other retail items.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition; however, it could improve employment if the economic viability of marijuana pharmacies is improved.

Malcolm Broussard
Executive Director
2004#073

Evan Brasseur
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Pharmacy**

Pharmacist License Display (LAC 46:LIII.505)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend Section 505 of its rules to repeal the requirement for a pharmacist to publicly display a paper copy of their current license renewal.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 5. Pharmacists

Subchapter A. Licensure Procedures

§505. Licensure

A. The board shall issue a license upon payment of the appropriate fees when the board is satisfied the applicant is competent to practice pharmacy in the state.

1. Renewal. The board shall make the annual pharmacist license renewal application available to all currently licensed Louisiana pharmacists prior to November 1. The completed application along with the appropriate fee shall be submitted to the board by December 31 of each year. A renewal of licensure shall serve as proof of licensure and a pharmacist's license to practice pharmacy for that year of issuance.

1.a. - 2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 29:2083 (October 2003), effective January 1, 2004, amended LR 33:1124 (June 2007), amended LR 38:1234 (May 2012), amended by the Department of Health, Board of Pharmacy, LR 46:

Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency Rule.

1. The Effect on the Stability of the Family. The proposed Rule amendment will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed Rule amendment will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed Rule amendment will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed Rule amendment will have no effect on family earnings or family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed Rule amendment will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed Rule amendment will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. The proposed Rule amendment will have no effect on household income, assets, or financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed Rule amendment will have no effect on early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. The proposed Rule amendment will have no effect on employment or workforce development.

4. The Effect on Taxes and Tax Credits. The proposed Rule amendment will have no effect on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. The proposed Rule amendment will have no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Analysis

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. The proposed Rule amendment will not impact small businesses.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. The proposed Rule amendment will not impact small businesses.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. The proposed Rule amendment will not impact small businesses.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. The proposed Rule amendment will not impact small businesses.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There proposed Rule amendment will not impact small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed Rule amendment will have no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The

proposed Rule amendment will have no effect on the cost to the provider to provide the same level of service.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of service. The proposed Rule amendment will have no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to Malcolm J Broussard, Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding the proposed Rule amendment.

Public Hearing

A public hearing to solicit comments and testimony on the proposed Rule amendment is scheduled for 9 a.m. on Friday, May 29, 2020. During the hearing, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for the receipt of all comments is 12 p.m. noon that same day. To request reasonable accommodations for persons with disabilities, please call the board office at 225.925.6496.

Malcolm J Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Pharmacist License Display

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will require the Louisiana Board of Pharmacy (LBP) to publish the proposed and final rules in the state register, resulting in a one-time cost of \$1,000 in FY 20 and \$1,000 in FY 21. There will be no additional expenditures or cost savings for LBP or other state or local governmental units.

The proposed rule change repeals the requirement for a pharmacist to publicly display the current renewal of their license; it corrects a drafting oversight in 2012 when LBP repealed the requirement for all of its licensees, except pharmacies, to publicly display the current renewal of their credentials.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will relieve a pharmacist from the obligation to publicly display their current license renewal or a copy thereof.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition or employment.

Malcolm Broussard
Executive Director
2004#071

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Board of Pharmacy

Prescription Monitoring Program (LAC 46:LIII.Chapter 29)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend several sections of its chapter of rules for the state prescription monitoring program (PMP). The proposed changes for §2901 remove several terms and their definitions which are duplicated from the PMP law. The proposed amendment of the definition of the term “drugs of concern” adds nine drugs, seven of which are used for the treatment of hepatitis to that list: (1) elbasvir/grazoprevir, (2) glecaprevir / pibrentasvir, (3) ledipasvir/sofosbuvir, (4) ombitasvir / paretaprevir/ritonavir/dasabuvir, (5) sofosbuvir, (6) sofosbuvir/velpatasvir, and (7) sofosbuvir/velpatasvir/voxilaprevir. The proposal also adds promethazine when present in oral liquid formulation as well as gabapentin. The effect of adding these nine drugs to that list will require pharmacies dispensing these drugs to include those dispensing transactions in their automated reports to the state PMP. The proposed changes for §2903, §2907, and §2909 are to repeal these redundant sections which are duplicated from the PMP law. The proposed change for §2905 is to repeal that section as redundant from the pharmacy law which contains the same authority to hire staff for board operations. The proposed addition of §2914 relative to record retention will implement the provisions of Act 189 of the 2016 Legislature. With respect to the proposed changes in §2917 relative to authorized access privileges to PMP information, Paragraphs 5 and 6 will implement the provisions of Act 241 of the 2017 Legislature; Paragraph 7 will implement the provisions of Act 232 of the 2018 Legislature; and Paragraph 9 will implement the provisions of Act 80 of the 2019 Legislature. With respect to the proposed changes in §2919 relative to PMP access registration procedures, Paragraph 1 will implement the provisions of Act 76 of the 2017 Legislature. Moreover, while the legislation requires automatic registration for prescribers, the board proposes to extend the automatic registration procedures to include dispensers. With respect to the proposed changes in §2921 relative to methods of access to PMP information, the proposed additions to Subsections B, E, F, G, H, K, L, and M were authorized by Act 241 of the 2017 Legislature; the proposed addition to Subsection I was authorized by Act 232 of the 2018 Legislature; the proposed addition to Subsection N was authorized by Act 80 of the 2019 Legislature; and the proposed new Subsection O was authorized by Act 352 of the 2012 Legislature

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 29. Prescription Monitoring Program

§2901. Definitions

A. As used in this Chapter, the following terms shall have the meaning ascribed to them unless the context clearly indicates otherwise.

Delegate—a person authorized by a prescriber or dispenser who is also an authorized user as described in Section 2917 of this Chapter to access and retrieve program data for the purpose of assisting the prescriber or dispenser, and for whose actions the authorizing prescriber or dispenser retains accountability.

Drugs of Concern—drugs other than controlled substances as defined by rule whose use requires tracking for public health purposes or which demonstrate a potential for abuse, including any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, esters, ethers, isomers, and salts of isomers [whenever the existence of such salts, esters, ethers, isomers, and salts of isomers is possible within the specific chemical designation]:

- a. butalbital when in combination with at least 325 milligrams of acetaminophen per dosage unit;
- b. naloxone;
- c. promethazine when present in oral liquid formulation;
- d. elbasvir / grazoprevir;
- e. glecaprevir / pibrentasvir;
- f. ledipasvir / sofosbuvir;
- g. ombitasvir / paretaprevir / ritonavir / dasabuvir;
- h. sofosbuvir;
- i. sofosbuvir/velpatasvir;
- j. sofosbuvir/velpatasvir/voxilaprevir;
- k. gabapentin

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1345 (July 2007), amended LR 36:755 (April 2010), effective September 1, 2010, amended by LR 39:314 (February 2013), amended LR 40:1096 (June 2014), amended LR 41:684 (April 2015), amended by the Department of Health, Board of Pharmacy, LR 45:42 (January 2019), LR 46:

§2903. Authority for Program Operation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1004.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1345 (July 2007), repealed by the Department of Health, Board of Pharmacy, LR 46:

§2905. Authority to Engage Staff

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1179.F(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1346 (July 2007), repealed by the Department of Health, Board of Pharmacy, LR 46:

§2907. Authority to Contract with Vendors

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1012.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1346 (July 2007), repealed by the Department of Health, Board of Pharmacy, LR 46:

§2909. Advisory Council

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1005.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1346 (July 2007), amended LR 39:314 (February 2013), amended LR 40:1096 (June

2014), repealed by the Department of Health, Board of Pharmacy, LR 46:

§2911. Reporting of Prescription Monitoring Information

A. Each dispenser shall submit to the board information regarding each prescription dispensed for a controlled substance or drug monitored by the program.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1346 (July 2007), amended LR 39:314 (February 2013), amended LR 41:684 (April 2015), amended by the Department of Health, Board of Pharmacy, LR 46:

§2914. Record Retention of Prescription Transaction Information

A. The board shall retain a minimum of five years of prescription transaction information for review by persons authorized to access such information.

B. The board shall archive all prescription transaction information not available for direct or indirect access.

C. The board shall respond to requests for archived prescription transaction information.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1006(G).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 46:

§2917. Authorized Direct Access Users of Prescription Monitoring Information

A. The following persons may access prescription monitoring information in the same or similar manner, and for the same or similar purposes, as those persons are authorized to access similar protected health information under federal and state law and regulation:

1. - 4. ...

5. a medical examiner or coroner, or a delegate thereof, for the purpose of investigating an individual's death.

6. a licensed substance abuse addiction counselor providing services as part of a state-licensed substance abuse or addiction treatment program.

7. an epidemiologist with the Louisiana Department of Health for the purpose of assisting the board in analyzing prescription monitoring information in order to conduct public health evaluations to support public policy and education pursuant to an agreement with the board.

8. prescription monitoring programs, electronic health information systems, and pharmacy information systems located in other states, territories, federal districts, and federal jurisdictions, through a secure interstate data exchange system or health information exchange system approved by the board, but only in compliance with the provisions of R.S. 40:1007(G).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1347 (July 2007), amended LR 39:315 (February 2013), amended LR 40:1095 (June 2014), amended by the Department of Health, Board of Pharmacy, LR 46:

§2919. Registration Procedures for Authorized Direct Access Users

A. Authorized users of prescription monitoring information, and their delegates, shall comply with the following requirements to register with the board, in order to receive the appropriate credentials to access prescription monitoring information.

1.a. A prescriber or dispenser, excluding veterinarians, shall be automatically registered as a participant in the program and shall authenticate their identity through an online process in order to activate their account.

b. An agency applicant shall file an application with the program, using the form supplied by the program for that purpose.

2. The board shall verify the prescriber or dispenser applicant is in possession of a valid license to prescribe or dispense controlled substances, or in the case of an agency application, the board shall verify agency representation.

3. Upon verification of all requirements, the board shall issue the appropriate credential necessary to access prescription monitoring information.

4. Upon receipt of information that an authorized user no longer possesses authority to prescribe or dispense controlled substances, the program shall terminate the user's credentials to access prescription monitoring information. If or when the user's authority to prescribe or dispense controlled substances is reinstated, the program may reinstate the user's credentials to access prescription monitoring information.

5. Prescribers and dispensers approved for access shall be responsible for the enabling and disabling of access privileges for their delegates, as well as the supervision of their activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1347 (July 2007), amended LR 40:1095 (June 2014), amended by the Department of Health, Board of Pharmacy, LR 46:

§2921. Methods of Access to Prescription Monitoring Information and Audit Trail Information

A. ...

B. Designated representatives from agencies charged with administrative oversight of prescribers and dispensers of controlled substances may solicit prescription monitoring information and audit trail information from the program concerning specific investigations of prescribers or dispensers. The program may require such users to certify the legitimacy of their inquiry prior to furnishing the requested information.

C. - D. ...

E. Upon receipt of one of the following methods of application by local, state, out-of-state, or federal law enforcement or prosecutorial officials, including judicially-supervised specialty courts within the criminal justice system that are authorized by the Louisiana Supreme Court, the program may provide prescription monitoring information and audit trail information:

1. - 3.c. ...

F. A medical examiner or coroner, or a delegate thereof, once properly registered, may solicit prescription monitoring information from the program for the purpose of investigating an individual's death. The program may require such users to certify the legitimacy of their inquiry prior to furnishing the requested information.

G. A licensed substance abuse addiction counselor, once properly registered, may solicit prescription monitoring information from the program for the purpose of providing services as part of a state-licensed substance abuse or addiction treatment program. The program may require such users to certify the legitimacy of their inquiry prior to furnishing the requested information.

H. Upon receipt of an administrative request from a probation or parole officer, the program may provide prescription monitoring information. The probation or parole officer must certify the request for prescription monitoring information is for the purpose of monitoring an offender's compliance with participation in a drug diversion program or with other conditions of probation or parole related to monitored drugs.

I. An epidemiologist with the Louisiana Department of Health, once properly registered, may solicit prescription monitoring information from the program for the purpose of assisting the board in analyzing prescription monitoring information in order to conduct public health evaluations to support public policy and education pursuant to an agreement with the board.

J. Individuals may solicit their own prescription monitoring information and audit trail information from the program. To prevent inappropriate access to such information, the requestor shall personally appear at the program office and produce positive photo identification at the time of their request. The program shall furnish a single copy of the report responding to such request at no charge to the individual.

K. A parent, legal guardian, or legal healthcare agent may solicit prescription monitoring information and audit trail information from the program for the purpose of reviewing the history of monitored drugs dispensed to a child or an individual for whom the agent makes healthcare decisions, to the extent consistent with federal and state confidentiality laws and regulations. To prevent inappropriate access to such information, the requestor shall personally appear at the program office and produce positive photo identification at the time of their request. The program shall furnish a single copy of the report responding to such request at no charge to the individual.

L. An executor of a will or a court-appointed succession representative of an estate may solicit prescription monitoring information and audit trail information from the program for the purpose of reviewing the history of monitored drugs dispensed to a deceased individual. To prevent inappropriate access to such information, the requestor shall personally appear at the program office and produce positive photo identification at the time of their request. The program shall furnish a single copy of the report responding to such request at no charge to the individual.

M. Program personnel, once properly registered, may solicit prescription monitoring information from the program's database for the purpose of maintaining the

database, analysis and reporting of data, compliance reviews, and responding to legitimate inquiries from authorized users or other individuals.

N. Prescription monitoring programs, electronic health information systems, and pharmacy information systems located in other states, territories, federal districts, and federal jurisdictions may access prescription monitoring information from the program through a secure interstate data exchange system or health information exchange approved by the board, but only in compliance with the provisions of R.S. 40:1007(G).

O. The board may provide prescription monitoring information to authorized users of the prescription monitoring program via a state health information exchange or other third-party conduit that has been approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1011.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 33:1347 (July 2007), amended LR 39:315 (February 2013), amended LR 40:1095 (June 2014), amended by the Department of Health, Board of Pharmacy, LR 46:

Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency Rule.

1. The Effect on the Stability of the Family. The proposed rule change will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed rule change will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed rule change will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed rule change will have no effect on family earnings or family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed rule change will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed rule change will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. The proposed rule change will have no effect on household income, assets, or financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development.

The proposed rule change will have no effect on early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. The proposed rule change will have no effect on employment or workforce development.

4. The Effect on Taxes and Tax Credits. The proposed rule change will have no effect on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. The proposed rule change will have no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Analysis

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses:

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. The proposed rule change will require a pharmacy dispensing any of the nine listed drugs of concern to include those dispensing transactions in their automated reports of the dispensing of all controlled substances and drugs of concern to the state prescription monitoring program. The reporting requirements for controlled substances and drugs of concern apply to all pharmacies dispensing outpatient prescriptions.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. The current rule requires all pharmacies to file such automated reports no later than the end of the next business day. The proposed rule change will not affect that reporting schedule.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. The reporting requirements in the proposed rule change are the same for all pharmacies.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. There no design or operational standards in the proposed rule change.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities:

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed rule change will have no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The

proposed rule change will have no effect on the cost to the provider to provide the same level of service.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of service. The proposed rule change will have no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to Malcolm J Broussard, Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding the proposed Rule amendment.

Public Hearing

A public hearing to solicit comments and testimony on the proposed Rule amendment is scheduled for 9 a.m. on Friday, May 29, 2020. During the hearing, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for the receipt of all comments is 12 p.m. noon that same day. To request reasonable accommodations for persons with disabilities, please call the board office at 225.925.6496.

Malcolm J Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Prescription Monitoring Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will require the Louisiana Board of Pharmacy (LBP) to publish the proposed and final rules in the state register, resulting in a one-time cost of \$2,000 in FY 20 and \$2,000 in FY 21. There will be no additional expenditures or cost savings for LBP.

The proposed rule change adds nine drugs, seven of which are used for the treatment of hepatitis to the definition of "Drugs of Concern" presently in the administrative rules: (1) elbasvir / grazoprevir, (2) glecaprevir / pibrentasvir, (3) ledipasvir / sofosbuvir, (4) ombitasvir / paretaprevir / ritonavir / dasabuvir, (5) sofosbuvir, (6) sofosbuvir / velpatasvir, and (7) sofosbuvir / velpatasvir / voxilaprevir. The other drugs to be added are promethazine when present in oral liquid formulation and gabapentin. To the extent other local governmental units report dispensing transactions of controlled substances and drugs of concern to the state prescription monitoring program, there may be a minimal cost for local governmental entities to update their dispensing information systems to include prescriptions for the nine listed drugs in their daily automated reports.

The proposed rule change removes several redundant definitions and other sections and also implements provisions of several legislative acts: Act 352 of 2012, Act 189 of the 2016 Regular Session, Acts 76 and 241 of the 2017 Regular Session, Act 232 of the 2018 Regular Session, and Act 80 of 2019. The revision of the administrative rules associated with the aforementioned acts align the rules with present administrative practice, and will not result in any additional costs or savings for the LBP or other state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Pharmacies are already required to report their dispensing transactions for controlled substances and drugs of concern to the state prescription monitoring program. Pharmacies which dispense any of the listed drugs in Part I will need to update their dispensing information system to classify the listed drugs as Drugs of Concern so the dispensing transactions for those listed drugs will be included in their daily reports to the state prescription monitoring program. For some providers, there may be no cost to re-classify those drugs in their dispensing information system. Other providers may need to incur an indeterminable cost to perform that process that is anticipated to be nominal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition or employment.

Malcolm Broussard
Executive Director
2004#070

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing**

**Dental Benefits Prepaid Ambulatory Health Plan
Network Provider Reimbursement
(LAC 50:1.2111)**

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:1.2111 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 10 of the 2019 Regular Session of the Louisiana Legislature directed the Department of Health, Bureau of Health Services Financing to increase reimbursement rates for dental exams for children under three years of age and restorative dental services provided to Medicaid recipients. In compliance with Act 10, the department promulgated an Emergency Rule which amended the provisions governing the dental benefits prepaid ambulatory health plan in order to increase reimbursement rates for dental exams for children under three years of age and restorative dental services (*Louisiana Register*, Volume 46, Number 4). The proposed Rule is being promulgated in order to continue the provisions of the March 23, 2020 Emergency Rule.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part 1. Administration

Subpart 3. Managed Care for Physical and Behavioral Health

Chapter 21. Dental Benefits Prepaid Ambulatory Health Plan

§2111. Payment Methodology

A. - G. ...

H. Network Provider Reimbursement

1. The DBPM shall provide reimbursement for defined core dental benefits and services provided by an in-network provider pursuant to the terms of its contract with the department.

H.2. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:788 (April 2014), amended LR 46:

Implementation of the provisions of this Rule may be contingent upon the approval of the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), if it is determined that submission to CMS for review and approval is required.

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 as it is expected have a positive effect on the oral health of children and maintain access to dental services.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it is expected have a positive effect on the oral health of children and maintain access to dental services.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have a positive impact on small businesses, as described in R.S. 49:965.2 et seq. by increasing reimbursement rates.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule may increase payments to providers of dental services.

Public Comments

Interested persons may submit written comments to Erin Campbell, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. Ms. Campbell is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on May 30, 2020.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such

request must be received no later than 4:30 p.m. on May 11, 2020. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on May 28, 2020 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after May 11, 2020. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Stephen R. Russo, JD
Interim Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Dental Benefits Prepaid Ambulatory
Health Plan**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will result in estimated state programmatic costs of approximately \$2,145,842 for FY 19-20, \$2,291,402 for FY 20-21 and \$2,360,144 for FY 21-22. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 19-20 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed Rule will increase federal revenue collections by approximately \$5,626,041 for FY 19-20, \$5,713,081 for FY 20-21 and \$5,884,474 for FY 21-22. It is anticipated that \$270 will be collected in FY 19-20 for the federal share of the expense for promulgation of this proposed rule and the final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This proposed rule, in compliance with Act 10 of the 2019 Regular Session of the Louisiana Legislature, continues the provisions of the March 23, 2020 Emergency Rule which amended the provisions governing the dental benefits prepaid ambulatory health plan in order to increase reimbursement rates for dental exams for children under three years of age and restorative dental services provided to Medicaid recipients. This proposed Rule will be beneficial to recipients by ensuring continued access to necessary dental services. Small businesses and dental providers will also benefit from the increased reimbursement for the provision of these services. It is anticipated that implementation of this proposed rule will result in programmatic costs to the Medicaid program of \$7,771,343 in FY 19-20, \$8,004,483 in FY 20-21 and \$8,244,618 in FY 21-22.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This rule has no known effect on competition and employment.

Cecile Castello, BSN, RN
Deputy Assistant Secretary
2004#076

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Bureau of Health Services Financing**

Pregnant Women Extended Services
Tobacco Cessation Counseling
(LAC 50:XV.16303)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 50:16303 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing amended the provisions governing extended services for pregnant women in order to implement tobacco cessation services mandated by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (*Louisiana Register*, Volume 46, Number 2). The department now proposes to amend the provisions governing tobacco cessation counseling for pregnant women in order to allow additional sessions in excess of established service limits when deemed medically necessary.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part XV. Services for Special Populations

Subpart 13. Pregnant Women Extended Services

**Chapter 163. Substance Use Screening and
Intervention Services**

§16303. Scope of Services

A. - B. ...

C. Service Limits. Substance use screening and intervention services shall be limited to one occurrence per pregnancy, or once every 270 days. Pregnant women may also receive up to eight tobacco cessation counseling sessions per year. Limits may be exceeded, based on medical necessity.

C.1. - D. ...

1. Pregnant women may receive four counseling sessions per quit attempt, up to two quit attempts per calendar year. Limits may be exceeded, based on medical necessity. The period of coverage for these services shall include the prenatal period through 60 days postpartum. Services shall be provided:

a. - b.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:794 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 46:184 (February 2020), LR 46:

§16305. Reimbursement Methodology

A. Reimbursement for substance use screening and intervention services provided to pregnant women shall be a flat fee based on the appropriate current procedural terminology (CPT) code.

1. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 40:795 (April 2014), amended by the Department of Health, Bureau of Health Services Financing, LR 46:184 (February 2020), LR 46:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by reducing prenatal complications and childhood health problems associated with maternal use of tobacco and other substances.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it is expected to reduce prenatal complications associated with maternal use of tobacco and other substances.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to the provider to provide the same level of service, and may enhance the provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule may increase payments to providers of substance use screening and intervention services.

Public Comments

Interested persons may submit written comments to Erin Campbell, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. Campbell is responsible for responding to inquiries regarding this

proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on May 30, 2020.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on May 11, 2020. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on May 28, 2020 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after May 11, 2020. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Stephen R. Russo, JD
Interim Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Pregnant Women Extended Services Tobacco Cessation Counseling

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will increase costs by \$324 for FY 19-20 and may have indeterminable programmatic costs to the state for FY 20-21 and FY 21-22. It is anticipated that \$648 (\$324 SGF and \$324 FED) will be expended in FY 19-20 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will increase federal revenue collections by \$324 for FY 19-20 and may have an indeterminable increase in federal revenue collections for FY 20-21 and FY 21-22. It is anticipated that \$324 will be collected in FY 19-20 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing tobacco cessation counseling for pregnant women in order to allow additional sessions in excess of established service limits when deemed medically necessary. This Rule will have a positive impact on recipients, providers of tobacco cessation counseling services, and small businesses. It is anticipated that implementation of this proposed Rule may result in an indeterminable increase in payments to providers of tobacco cessation counseling services in FY 20-21 and FY 21-22.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

This rule has no known effect on competition and employment.

Cecile Castello, BSN, RN
Deputy Assistant Secretary
2004#077

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

Regulation 112—Adoption of NAIC Handbooks,
Guidelines, Forms, and Instructions
(LAC 37:XIII.Chapter 161)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend Regulation 112.

The purpose of the amendment to Regulation 112 is to identify and to incorporate by reference the current edition of handbooks, guidelines, forms, and instructions adopted by the National Association of Insurance Commissioners (NAIC) and referenced in the Louisiana Insurance Code.

Title 37

INSURANCE

Part XIII. Regulations

**Chapter 161. Regulation 112—Adoption of NAIC
Handbooks, Guidelines, Forms, and
Instructions**

**§16101. NAIC Handbooks, Guidelines, Forms, and
Instructions Incorporated by Reference**

A. ...

B. The following NAIC handbooks, guidelines, forms, and instructions are hereby adopted and incorporated by reference:

1. the *Financial Condition Examiner's Handbook*, 2019 edition;
2. the *Annual and Quarterly Statement Instructions, Property and Casualty*, 2019 edition;
3. the *Annual and Quarterly Statement Instructions, Life, Accident, and Health*, 2019 edition;
4. the *Annual and Quarterly Statement Instructions, Health*, 2019 edition;
5. the *Annual and Quarterly Statement Instructions, Title*, 2019 edition;
6. the *Annual and Quarterly Statement Instructions, Fraternal*, 2019 edition;
7. the *Annual and Quarterly Statement Blanks, Property and Casualty*, 2019 edition;
8. the *Annual and Quarterly Statement Blanks, Life, Accident, and Health*, 2019 edition;
9. the *Annual and Quarterly Statement Blanks, Health*, 2019 edition;
10. the *Annual and Quarterly Statement Blanks, Title*, 2019 edition;
11. the *Annual and Quarterly Statement Blanks, Fraternal*, 2019 edition;

12. the *Accounting Practices and Procedures Manual*, 2019 edition;

13. the *Financial Analysis Handbook*, 2019 edition;

14. the *Own Risk and Solvency Assessment Guidance Manual*, 2019 edition;

15. the *Purposes and Procedures Manual of the NAIC Investment Analysis Office*, 2019 edition;

16. the *Risk-Based Capital Forecasting and Instructions*, 2019 edition;

17. the *Market Regulation Handbook*, 2019 edition.

C. - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 258, 586(G), 619(B), 640(B), 675, 661(A), 691.11, 691.54, and 1804.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 45:1208 (September 2019), amended LR 46:

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed amended regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the effect of the Proposed Regulation on the Functioning of the Family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the Rule.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Statement

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level Of Service. The proposed amended regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The Proposed Amended Regulation Will Have No Effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments must be received no later than May 11, 2020, by 4:30 p.m. and should be addressed to Lisa Henson, Louisiana Department of Insurance, and may be mailed to P.O. Box 94214, Baton Rouge, LA 70804-9214, faxed to (225) 342-1632, or emailed to lisa.henson@ldi.la.gov. If comments are to be shipped or hand-delivered, please deliver to Poydras Building, 1702 North Third Street, Baton Rouge, LA 70802.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 112—Adoption of NAIC Handbooks, Guidelines, Forms, and Instructions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in additional costs or savings for state or local governmental units. The proposed rules incorporate and reference the current editions of handbooks, guidelines, forms, and instructions adopted by the National Association of Insurance Commissioners (NAIC) and referenced in the Louisiana Insurance Code. The current editions of these publications serve as the most current professional guidance for entities regulated by the LA Dept. of Insurance.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will benefit persons and entities seeking to know which handbooks or guidelines are currently being incorporated by reference to serve as professional guidance for entities under the purview of the LA Dept. of Insurance (LDI). These handbooks and guidelines will be available for public viewing in hardcopy form at the offices of the LDI and Office of State Register and online at the NAIC website.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition or employment.

Denise Brignac
Chief of Staff
2004#068

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Rule 4—Interlocal Risk Management Agency (LAC 37:XI.Chapter 3)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and through the authority granted under R.S. 22:11 et seq., the Department of Insurance hereby gives notice of its intent to amend Rule 4 for the purpose to comport with current law and implement the provisions of R.S. 33:2955.

Title 37 INSURANCE Part XI. Rules

Chapter 3. Rule 4—Interlocal Risk Management Agency

§301. Purpose

A. The purpose of this amendment to Rule 4 is to provide for the expansion of the types of investments in which an Interlocal Risk Management Agency could invest

to include selected investments permitted under R.S. 33:2955 and to adopt provisions and uniform guidelines for their interpretation as authorized specifically by Act 462 of the 1979 Session of the Legislature. This rule is designed to facilitate and implement the provisions of that Act. It is intended to supplement, not alter in any manner, the provisions of the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Title 22, Section 2 of 1950 and Act 462 of the 1979 Session of the Louisiana Legislature, R.S. 33:2955 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 16:621 (July 1990), LR 46:

§303. Applicability

A. These provisions shall be applicable to any and all entities which may be defined as an *interlocal risk management agency* by Act 462 of the 1979 Session of the Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Title 22, Section 2 of 1950 and Act 462 of the 1979 Session of the Louisiana Legislature, R.S. 33:2955 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 16:621 (July 1990), amended LR 46:

§305. Authority

A. Rule 4 is promulgated by the commissioner pursuant to the authority granted under the Louisiana Insurance Code, R.S. 22:11, Title 22, Section 2 of 1950 and Act 462 of the 1979 Session of the Louisiana Legislature, R.S. 33:2955 and the Administrative Procedure Act, R.S. 49:950 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Title 22, Section 2 of 1950 and Act 462 of the 1979 Session of the Louisiana Legislature, R.S. 33:2955 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 16:621 (July 1990), amended LR 46:

§313. Solvency or Risk Management Agencies; Trustee Responsibilities

A. - A.3. ...

4. the board of trustees or its fiscal agent or administrator shall not utilize any of the monies collected as premiums for any purpose unrelated to workmen's compensation or public liability purposes. Further, it shall not borrow any monies from the fund, or in the name of the fund, without advising the Department of Insurance of the nature and purpose of the loan and obtaining approval. The board of trustees may, at its discretion, invest any surplus monies not needed for current obligations, but such investments shall be limited to:

a. direct United States Treasury obligations, the principal and interest of which are fully guaranteed by the government of the United States;

b. bonds, debentures, notes, or other evidence of the indebtedness issued or guaranteed by federal agencies and provided such obligations are backed by the full faith and credit of the United States of America, which obligations include but are not limited to:

- i. U.S. Export-Import Bank;
- ii. Farmers Home Administration;
- iii. Federal Financing Bank;
- iv. Federal Housing Administration Debentures;

v. General Services Administration;

vi. Government National Mortgage Association—guaranteed mortgage-backed bonds and guaranteed pass-through obligations;

vii. U.S. Maritime Administration—guaranteed Title XI financing;

viii. U.S. Department of Housing and Urban Development.

c. Bonds, debentures, notes, or other evidence of the indebtedness issued or guaranteed by U.S. government instrumentalities, which are federally sponsored, and such obligations include but are not limited to:

- i. Federal Home Loan Bank System;
- ii. Federal Home Loan Mortgage Corporation;
- iii. Federal National Mortgage Association;
- iv. Student Loan Marketing Association;
- v. Resolution Funding Corporation.

d. In no instance shall an interlocal risk management agency invest in obligations in Subparagraphs b and c of this Paragraph which are collateralized mortgage obligations that have been stripped into interest only or principal only obligations, inverse floaters, or structured notes. For the purposes of this Item, *structured notes* shall mean securities of U.S. government agencies, instrumentalities, or government-sponsored enterprises, which have been restructured, modified, and/or reissued by private entities.

e. Bonds, debentures, notes, or other evidence of indebtedness issued by the state of Louisiana or any of its political subdivisions provided that the indebtedness shall have a long-term rating of Baa or higher by Moody's Investors Service, a long-term rating of BBB- or higher by Standard and Poor's or a long-term rating of BBB- or higher by Fitch, Inc. or a short-term rating of MIGI or VMIGI by Moody's Investors Service, a short-term rating of A-1 or A-1+ by Standard and Poor's, or a short-term rating of F1 or F1+ by Fitch, Inc.

f. Direct security repurchase agreements of any federal book entry only securities enumerated in Subparagraphs a, b, and c of this Paragraph. *Direct security repurchase agreement* means an agreement under which political subdivision buys, holds for a specified time, and then sells back those securities and obligations enumerated in Subparagraphs a, b, and c of this Paragraph.

g. Time certificates of deposit of any bank domiciled or having a branch office in the state of Louisiana, savings accounts or shares of savings and loan associations and savings bank, as defined by R.S. 6:703(16) or (17), or share accounts and share certificate accounts of federally or state-chartered credit unions issuing time certificates of deposit. Funds invested herein shall not exceed at any time the amount insured by the Federal Deposit Insurance Corporation in any one banking institution, or in any one savings and loan association, or National Credit Union Administration.

h. Deposits in savings and loan associations and commercial banks shall be limited in this state, except in those instances where higher interest rates paid on deposits by such institutions in other states will provide better investment income and such deposits shall not exceed the federally insured amount in any one account, except that the federally insured amount on any one account may be

exceeded if the amount involved in such an account does not exceed the greater of either of the two factors:

i. 5 percent of the combination of surplus and undivided profits and reserves, as currently reported for each bank in this state of in the banking division annual report of the Financial Institution Office of the Department of Commerce (banking control) or financial reports filed with the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Federal Reserve Bank of Atlanta;

ii. \$500,000 per institution.

i. Mutual or trust fund institutions which are registered with the Securities and Exchange Commission under the Securities Act of 1933 and the Investment Act of 1940, and which have underlying investments consisting solely of and limited to securities of the United States government or its agencies. Investment of funds in such mutual or trust fund institutions shall be limited to 25 percent of the monies considered available for investment as provided by this Section.

j. Guaranteed investment contracts issued by a bank, financial institution, insurance company, or other entity having one of the two highest short-term rating categories of either Standard and Poor's Corporation or Moody's Investors Service, provided that no such investment may be made except in connection with a financing program for political subdivisions which financing program is approved by the state Bond Commission and offered by a public trust having the state as its beneficiary, provided further that no such investment shall be for a term longer than 18 months, and provided further that any such guaranteed investment contract shall contain a provision providing that in the event the issuer of the guaranteed investment contract is at any time no longer rated in either of the two highest short-term rating categories of Standard and Poor's Corporation or Moody's Investors Service, the investing unit of local government may either be released from the guaranteed investment contract without penalty, or be entitled to require that the guaranteed investment provider collateralize the guaranteed investment contract with any bonds or other obligations which as to principal and interest constitute direct general obligations of, or are unconditionally guaranteed by, the United States of America, including obligations set forth in Subparagraphs a and b of this Paragraph to the extent unconditionally guaranteed by the United States of America.

k. Investment grade commercial paper issued in the United States, traded in the United States markets, denominated in United States dollars, with a short-term rating of at least A-1 by Standard and Poor's Financial Services LLC or P-1 by Moody's Investor Service, Inc. or the equivalent rating by a Nationally Recognized Statistical Rating Organization (NRSRO).

l. Pre-approved first mortgage loans on commercial real estate owned by the fund administrator, located with the state of Louisiana, and occupied by the Fund or its trustees, administrator, or third party administrator.

m. Bonds, debentures, notes, or other indebtedness issued by a state of the United States of America other than Louisiana or any such state's political subdivisions provided that all of the following conditions are met.

i. The indebtedness shall have a long-term rating of A3 or higher by Moody's Investors Service, a long-term rating of A- or higher by Standard and Poor's or a long-term rating of A- or higher by Fitch, Inc., or a short-term rating of MIG1 of VMIG1 by Moody's Investor's Service, a short-term rating of A-1 or A-1+ by Standard & Poor's, or a short-term rating of F1 or F1+ by Fitch, Inc.

ii. Prior to purchase of any such indebtedness and at all times during which such indebtedness is owned, the purchasing interlocal risk management agency retains the services of an investment advisor registered with the United States Securities and Exchange Commission; a trust department of an institution that is insured by the Federal Deposit Insurance Corporation, that exercised trust powers in Louisiana, and that has a main office or a bank branch in Louisiana; or a trust company that has offices in Louisiana, that is regulated by the Office of Financial Institutions or the applicable federal agency, and that owes a fiduciary duty to act solely in the best interest of the political subdivision.

n. Bonds, debentures, notes or other indebtedness issued by domestic United States corporations provided that all of the following conditions are met.

i. The indebtedness shall have a long-term rating of Aa3 or higher by Moody's Investors Service, a long-term rating of AA- or higher by Standard and Poor's, or a long-term rating of AA- or higher by Fitch Ratings, Inc.

ii. Prior to purchase of any such indebtedness and at all times during which such indebtedness is owned, the purchasing interlocal risk management agency retains the services of an investment advisor registered with the United States Securities and Exchange Commission; a trust department of an institution that is insured by the Federal Deposit Insurance Corporation, that exercised trust powers in Louisiana, and that has a main office or a bank branch in Louisiana; or a trust company that has offices in Louisiana, that is regulated by the Office of Financial Institutions or the applicable federal agency, and that owes a fiduciary duty to act solely in the best interest of the political subdivision.

o. All interlocal risk management agencies shall develop and adopt an investment policy that details and clarifies investment objectives and the procedures and constraints necessary to reach those objectives. All such investment policies should:

i. reflect the mandate to manage funds prudently;

ii. place appropriate emphasis on the goals of safety of principal first, liquidity second, and yield third.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, Title 22, Section 2 of 1950 and Act 462 of the 1979 Session of the Louisiana Legislature, R.S. 33:2955 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 16:621 (July 1990), amended LR 46:

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed amended

regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the effect of the Proposed Regulation on the Functioning of the Family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the Rule.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

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5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Statement

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed amended regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The Proposed Amended Regulation Will Have No Effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments must be received no later than May 11, 2020, by 4:30 p.m. and should be addressed to Lisa Henson, Louisiana Department of Insurance, and may be mailed to P.O. Box 94214, Baton Rouge, LA 70804-9214, faxed to (225) 342-1632, or emailed to lisa.henson@ldi.la.gov. If comments are to be shipped or hand-delivered, please deliver to Poydras Building, 1702 North Third Street, Baton Rouge, LA 70802.

James J. Donelon
Commissioner

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS. (Summary)

The proposed rule will not result in additional costs or savings for state or local governmental units. The proposed rule provides for the expansion of the types of investments in which an Interlocal Risk Management Agency could invest to include selected investments permitted under La. R.S. 33:2955 and adopts provisions and uniform guidelines for their interpretation as authorized specifically by Act 462 of the 1979 Session of the Legislature.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS. (Summary)

The proposed rules will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS. (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups. The proposed rule provides for the expansion of the types of investments in which an Interlocal Risk Management Agency

could invest to include selected investments permitted under La. R.S. 33:2955 and adopts provisions and uniform guidelines for their interpretation as authorized specifically by Act 462 of the 1979 Session of the Legislature.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT. (Summary)

The proposed rules will not affect competition or employment.

Denise Brignac
Chief of Staff
2004#069

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Office of Alcohol and Tobacco Control**

**Vapor Products Public Safety Regulations
(LAC 55:VII.3120-3134)**

The Louisiana Department of Revenue, Office of Alcohol and Tobacco Control, pursuant to the emergency rulemaking authority granted by R.S. 49:953(B) of the Administrative Procedure Act (R.S. 49:950, et seq.) and the specific rule making authority granted by R.S. 3:1483, hereby adopts the following Emergency Rule for the protection of public health. The effective date of this Rule is upon signature.

The Louisiana Department of Revenue, Office of Alcohol and Tobacco Control, finds it necessary to make immediate changes to the Louisiana Administrative Code given the need for regulation of alternative nicotine and vapor products under the provisions of Act No. 424 of the 2019 Louisiana Legislature. The following regulations will give the ATC the ability to properly permit, authorize, and regulate the retail sale and distribution of alternative nicotine and vapor products, which will affect the health of Louisiana citizens and give the commissioner of the Office of Alcohol and Tobacco Control the ability to make critical decisions that protect human health. This rule creates §3120 through §3134 to address retail sale and distribution of alternative nicotine and vapor products and related matters since this is not addressed otherwise by existing law or regulation.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Subpart 2. Tobacco

**Chapter 31. Alternative Nicotine and Vapor Products
Public Safety Regulations**

§3120. Definitions

A. As used in this Chapter, the following terms have the meaning ascribed to them in this Section, unless the context clearly indicates otherwise:

E-Liquid—a substance that does not include cannabis or CBD as defined under the laws of this state and the laws of the United State and which meets all of the following criteria:

- a. may or may not contain nicotine;
- b. is intended to be vaporized and inhaled using a vapor product;
- c. is a legal substance under the laws of this state and the laws of the United States;

Manufacturer—anyone engaged in the manufacture, production, or foreign importation of tobacco products, vapor products, and alternative nicotine who sells to wholesalers.

Retail Dealer—includes every dealer other than a wholesale dealer, or manufacturer who sells or offers for sale cigars, cigarettes, other tobacco products, alternative nicotine products, or vapor products, irrespective of quantity or the number of sales. If any person is engaged in the business of making sales both at retail and wholesale, “retailer” shall apply only to the retail portion of the business.

Tamper Evident Package—a package having at least one indicator or barrier to entry that, if breached or missing, can reasonably be expected to provide visible evidence to consumer that tampering has occurred.

Wholesale Dealer—a dealer whose principal business is that of a wholesaler, who sells cigarettes, cigars, or other tobacco products to retail dealers for purpose of resale, who is a bona fide wholesaler, and 50 percent of whose total tobacco sales are to retail stores other than its own or those of its subsidiaries or parent companies within Louisiana. Wholesaler dealer shall include any person in the state who acquires cigarettes solely for the purpose of resale in vending machines, provided such person services 50 or more cigarette vending machines in Louisiana other than his own, and a Louisiana dealer who was affixing cigarette and tobacco stamps as of January 1, 1974. If any person is engaged in the business of making sales at both wholesale and retail, wholesaler shall apply only to the wholesale portion of the business.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

§3122. General Requirements

A. Every person who sells or is about to engage in the business of selling at retail, at wholesale, or by vending machine, or is about to engage in the business of receiving unstamped and/or non-tax paid tobacco products, vapor products, or alternative nicotine products or who is engaged in the business of receiving stamped cigarettes at wholesale or any or all of the articles taxed in accordance with Title 47 of the Louisiana Revised Statutes of 1950, shall first apply to and obtain from the office a permit for each place of business and each vending machine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

§3124. Acts Prohibited

A.1. No retail dealer shall purchase tobacco products for resale except from a wholesaler dealer operating with a valid unsuspended wholesaler dealer permit, except as provided for in this Chapter.

2. No vapor retail dealer shall purchase alternative nicotine products or vapor products for resale except from a manufacturer of those products or a wholesaler dealer operating with a valid unsuspended Louisiana wholesaler dealer permit, except as provided for in this Chapter.

B. No wholesale dealer shall sell tobacco products, alternative nicotine products, or vapor products for resale except to a retail dealer operating with either a valid registration certificate or a valid unsuspended permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

§3126. Inspection and Examination

A. The commissioner or her agent may inspect any place of business where alternative nicotine or vapor products are stored, offered for retail sale, or offered for wholesale. She or her agent may examine, at all reasonable hours, the books records, and other documents of all retail dealer permit holders.

B. No person shall refuse to allow, on demand, the commissioner or her agent to make a full inspection of a place of business where alternative nicotine or vapor products are offered for wholesale and/or sale to the public, nor shall any person refuse to allow, on demand, the commissioner or her agent to examine and audit the books and records of any business where alternative nicotine or vapor products are offered for wholesale and/or sale to the public, nor shall any person in any way hinder or prevent such an inspection or audit.

C. Any refusal by a retail permit dealer permit holder to allow the commissioner or her agent to inspect the permitted place of business or to examine and audit the books and records of the permitted business as provided within this section is grounds for the suspension of a permit, in addition to other penalties provided in this chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

§3128. Manufacturer Authorization

A. Manufacturers of vapor products shall not sell vapor products in this state without authorization from the office of alcohol and tobacco control. The request for authorization shall include:

1. the name and telephone number of the applicant;
2. the name, telephone number, and address of the manufacturing facility;
3. the name, telephone number, title, and address of the person responsible for the manufacturing facility;
4. verification that the facility will comply with applicable tobacco products good manufacturing practices pursuant to 21 U.S.C. 387f(e) of the Federal Food, Drug, and Cosmetic Act;
5. verification that the manufacturer will comply with the applicable ingredient listing required by 21 U.S.C. 387d(A)(1) of the Federal Food, Drug, and Cosmetic Act.

B. Authorization forms shall be mailed or delivered to the commissioner in Baton Rouge, Louisiana, unless other additional methods are made available by the commissioner.

C. Authorization forms will be processed at the office of alcohol and tobacco control at no cost to applicant.

D. Authorization forms will be valid for a period of one year.

E. Manufacturer authorizations shall be considered a privilege and is not transferrable, assignable, or heritable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

§3130. Safety Requirements

A. All manufacturers and wholesalers shall comply with the following:

1. any alternative nicotine or vapor product must use a child proof cap that has a child resistant effectiveness set forth in the federal poison prevention packaging standards, 16 CFR 1700.1(b)(1);

2. any alternative nicotine or vapor product must use tamper evident packaging. The tamper evident packaging feature must be designed to and remain intact when handled in a reasonable manner.

B. Any manufacturer or wholesaler who violates the safety requirement provisions of this chapter shall be subject to having their permit suspended or revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

§3132. Age Verification

A. For all online sales manufacturers and wholesalers must perform an age verification process through an independent, third party age verification service that compares information from public records to the personal information entered by the purchaser during the ordering process that establishes the person is of legal age or older.

B. Persons accepting purchase orders for delivery sales may request that prospective consumers provide their email addresses.

C. No retailer may sell or deliver alternative nicotine or vapor products of any kind in a retail establishment to any person through any unattended or self-service checkout counter or mechanical device unless the customer submits to a clerk a valid driver's license, selective service card, or other lawful identification that on its face establishes the age of the person as 18 years or older and there is no reason to doubt the authenticity and correctness of the identification prior to approaching the self-checkout counter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

§3134. Prohibition Sales to Minors

A. No person holding a retail dealer permit and no servant, agent, or employee of the permittee shall sell any alternative nicotine or vapor products to any person under the age of 18 years of age.

B. To ensure that no alternative nicotine or vapor products are sold to a person under the age of 18 years of age, a retail dealer permit holder and their servants, agents, and employees may require all persons attempting to purchase alternative nicotine or vapor products at retail to produce for inspection either:

1. a valid, current, Louisiana driver's license which contains a photograph of the person presenting the driver's license;

2. a valid, current, driver's license of another state which contains a photograph of the person and birth date of the person submitting the driver's license;

3. a valid, current, special identification card issued by the state of Louisiana pursuant to R.S. 40:1321 containing a photograph of the person submitting the identification card;

4. a valid, current, passport or visa issued by the federal government or another country or nation, that contains a permanently attached photograph of the person and the date of birth of the person submitting the passport or visa;

5. a valid, current, military or federal identification issued by the federal government containing a photograph of the person and date of birth of the person submitting the identification card;

6. a valid, current, special identification card of another state which contains a photograph of the person and birth date of the person submitting the identification card;

7. any digitized identification approved by the commissioner may be accepted by a retail dealer. Retail dealers may choose to accept digitized identification or they may still require a physical identification when checking identification. Retail dealers whom the Agency has required to utilize scanners shall still be required to request and scan a physical identification and may not accept digitized identification. Digitized identification may be accepted by establishments provided that all employees have been properly trained prior to acceptance in accordance with the requirements of LAC 55:VII.401.D.

C. Each form of identification listed above must on its face establish the age of the person as 18 years or older, and there must be no reason to doubt the authenticity or correctness of the identification. No form of identification mentioned above shall be accepted as proof of age if it is expired, defaced, mutilated, or altered. If the state identification card or lawful identification submitted is a duplicate, the person shall submit additional information which contains the name, date of birth, and picture of the person. A duplicate driver's license shall be considered lawful identification for the purposes of this Paragraph, and a person shall not be required to submit additional information containing the name, date of birth, and picture of the person. In addition, an educational institution identification card, check cashing identification card, or employee identification card shall not be considered as lawful identification for the purpose of this Paragraph.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1483.

HISTORICAL NOTE: Promulgated by the Department of Department of Revenue, Office of Alcohol and Tobacco Control, LR 46:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has a negligible impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as

defined by R.S. 49:973.B. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;

2. the effect on early childhood development and preschool through postsecondary education development;

3. the effect on employment and workforce development;

4. the effect on taxes and tax credits;

5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule.

This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to R. Danielle Barringer, Office of Alcohol and Tobacco Control, 7979 Independence Blvd, Suite 101, Baton Rouge, LA 70806. She is responsible for responding to inquiries regarding this proposed Rule.

Juana Marine-Lombard
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Vapor Products Public Safety Regulations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rules may result in marginal costs for the LA Dept. of Revenue, Office of Alcohol & Tobacco Control (ATC), as they allow ATC to inspect and examine retailers selling alternative nicotine and vapor products. Furthermore, the proposed rules require ATC to process authorization forms for manufacturers of nicotine and vapor products. ATC may realize marginal cost increases associated with inspecting retailers and processing manufacturer authorization forms that will be offset in whole or in part by revenues collected from permitting firms selling vapor products as tobacco retailers (see Part II).

The proposed rules will not result in any costs or savings for local governmental units.

The proposed rules provide for the regulation of alternative nicotine and vapor products under the provisions of Act 424 of 2019. The rules allow for the state of Louisiana to properly permit, authorize, and regulate the retail sale, manufacturing,

and distribution of alternative nicotine and vapor products. Furthermore, the proposed rules outline the requirements of retailers and manufacturers of alternative nicotine and vapor products in Louisiana, including prohibited acts and safety requirements.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will increase revenues for ATC by an indeterminate, though potentially significant amount beginning in FY 20 and in subsequent fiscal years. ATC anticipates retailers selling vapor products to be permitted as retail dealers, which carries an annual permit fee of \$25. The revenue increase is indeterminate because the number of retailers selling vapor products who do not currently hold a retail dealer permit is unknown. However, to the extent that there is a large number of unpermitted retailers (i.e. retailers selling vapor products not already permitted to sell stamped tobacco products) selling vapor products in Louisiana, the potential revenue increase may be significant.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rules generally outline the requirements of retailers selling vapor products, but include annual permitting requirements for retailers with associated fees of \$25. Furthermore, the proposed rules outline prohibited acts and safety requirements, require open inspections of premises by ATC, require age verification of persons purchasing vapor products, and prohibit sales to minors.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules will not affect competition or employment.

Juana Marine-Lombard
Commissioner
2004#006

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

Department of Transportation and Development Office of Public Works

Flood Control and Water Management
(LAC 56:III.Chapters 3 and 5)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 38:90.1 et seq., the Department of Transportation and Development, Office of Public Works, proposes to amend Part III, Chapters 3 and 5, of Title 56 entitled "Statewide Flood Control Program" and "Funding Applications," respectively, to help manage the Statewide Flood Control Program participation, as well as to create the rules to implement the Rural Grant Opportunity.

Title 56

PUBLIC WORKS

Part III. Flood Control and Water Management

Subpart 1. Water Resources and Flood Control

Chapter 3. Statewide Flood Control Program

Subchapter A. Procedures for Implementing Statewide Flood Control Program

§301. Sequence

A. This Section describes the sequence of events involved in implementing the Statewide Flood Control Program. The sequence begins and ends each year during the

Regular Session of the Legislature. Specific procedures are described briefly in this Section and are presented more fully in the pre-application, application, and evaluation of proposed projects and distribution of funds sections of this document.

1. Pre-Application and Resolution. Sponsoring authorities are to complete the pre-application, and must submit their completed pre-applications and resolutions to the Department of Transportation and Development, Office of Engineering, Public Works and Water Resources (DOTD) not later than 4 p.m. on May 1. Pre-applications received after May 1 will not be eligible for the program in the current year, but will be eligible for review during the next year. Pre-applications must include documentation of the flooding problem in order to be considered.

2. Evaluation Committee Review of Pre-Applications (May 1-June 1)

a. Pre-applications will be reviewed and screened by the Evaluation Committee. The reasons for the review are to determine whether there is documented evidence of flood damages; whether the sponsoring authority is requesting DOTD assistance in preparing the full application; whether the proposed solution (if such a solution has been developed at this time) is eligible for funding under this program; and whether the sponsoring authority is willing to assume responsibility for its share of the cost, including new rights-of-way, operation and maintenance costs, and other obligations, within 4 years of acceptance into the program.

b. Ineligible projects under this program will include those which:

- i. do not reduce existing flood damages;
- ii. encourage additional development of flood prone areas;
- iii. increase the likelihood of upstream, downstream, or adjacent flood problems;
- iv. have a total construction cost of less than \$100,000; or
- v. primary purpose is to provide protection against coastal storm surges.

c. All pre-applications that are determined to be ineligible by the Evaluation Committee will be returned with appropriate comments by June 1. All eligible pre-applications will remain on file until a formal application is submitted or for a period of four subsequent funding years. The pre-application evaluation criteria for DOTD assistance are described in the Pre-Application Section.

d. Pre-applications that have been determined to be eligible and that may move on to the application stage include:

- i. pre-applications submitted by sponsoring authorities with a population of more than 50,000;
- ii. pre-applications from sponsoring authorities to receive assistance from DOTD in the application stage;
- iii. pre-applications from sponsoring authorities eligible for assistance from DOTD in the application stage that cannot be handled by DOTD in time for the current funding year that chose to prepare their own applications.
- iv. pre-applications from sponsoring authorities seeking participation in the Rural Grant Opportunity Program must meet the requirements of Subchapter D. §327

e. Pre-applications in the third group may be processed in the application stage by DOTD in time for the

next year's funding. Applications on which DOTD initiates work will receive increased priority for assistance in application preparation in the following funding years. The sponsoring authorities need not wait for DOTD assistance. However, they may prepare and submit their own applications.

f. At the end of the pre-application review period, applicants will be notified of the status of their pre-applications. The sponsoring authorities seeking DOTD assistance in preparing an application will be informed by letter whether they:

- i. will receive DOTD assistance in time for the current funding cycle; or
- ii. will not receive assistance at this time and must compete for assistance again the following year.

g. Authorities completing their own applications may automatically move into the application stage unless the proposed solution is not eligible as a project under the program. If the proposed solution is not consistent with the program's objectives, the Evaluation Committee may suggest alternative solutions which must be addressed in order for the application to be eligible.

3. Application Preparation (June 1-October 1)

a. Applications may be submitted anytime between June 1 and October 1, but must be received by DOTD no later than 4 p.m. October 1, in order to be considered for funding during the upcoming legislative session. Applications received after this deadline will not be eligible for the current year's program. Applications for which pre-applications were received and approved from the previous year(s) may also be accepted during this period, provided all other procedures and deadlines have been met and four years have not elapsed since the pre-application submittal.

b. On request, DOTD will prepare applications for eligible sponsoring authorities to the extent possible. All applications must adhere to the methodologies described in the instructions contained in the Statewide Flood Control Procedures Manual.

4. Evaluation Committee Review of Applications (October 1-April 1)

a. During this six-month period, the Evaluation Committee will review and evaluate all completed applications in order to make recommendations to the Joint Legislative Committee on Transportation, Highways, and Public Works (Joint Legislative Committee) for funding. Applications will be divided into urban and rural categories. Applications for projects in the eleven urban areas comprise the urban category, as shown in the Figure 1, and compete against all other urban projects for funding. All other applications will be grouped by funding district as shown in Figure 2. Proposed projects will be evaluated and ranked based on criteria established by the Evaluation Committee.

b. Projects recommended to the Joint Legislative Committee will include a mix of those occurring in each rural funding district as well as those for urban areas of the state. The method for allocating funding percentages within each district and the method for allocating total program funds to the various districts are presented in Subchapter D, Evaluation of Proposed Projects and Distribution of Funds.



Figure 1. Statewide Flood Control Program Urban Areas Funding Group

5. Public Hearings (February-March). As part of the application evaluation process, the Joint Legislative Committee will hold public hearings in locations convenient to each funding district. The purpose of the hearings will be to receive comments from the public on the preliminary recommendations of the Evaluation Committee. After the hearings, the Evaluation Committee will incorporate public comments into its evaluation, complete the project evaluations, complete the project evaluations, and submit a priority ordered list of projects to the Joint Legislative Committee.

6. Legislative Process (March-Regular Session). From the list of projects recommended by the Evaluation Committee, the Joint Legislative Committee will recommend to the legislature a construction program to be funded during the regular session. Projects recommended by the Evaluation Committee but not funded will remain active and will automatically be included in the recommended projects for the next year and receive additional points in the evaluation scoring procedure. Applications for projects that are not recommended will be returned to the sponsoring authorities with reasons for rejection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:90.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 5:561 (May 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR 35:2849 (December 2009), amended LR 46:

Subchapter B. Pre-Application Evaluation

§303. Pre-Application Review and Evaluation Procedure

A. The Evaluation Committee will be responsible for the review and evaluation of pre-applications. The reasons for reviewing and evaluating the pre-applications are to determine the following:

- 1. whether there is documented evidence of flood damages under existing conditions;
- 2. whether the sponsoring authority is requesting DOTD assistance in preparing the full application;
- 3. whether the proposed solution (if one has been developed) appears to be eligible for funding under this program;

4. whether the sponsoring authority is willing to assume responsibility for its share of the cost within 4 years of acceptance into the program.

B. If the applicant fails to adequately document that flood damages have occurred, the Evaluation Committee will not evaluate the pre-application and will notify the sponsoring authority accordingly.

C. Because of time and manpower constraints, DOTD will not be able to provide immediate assistance to all sponsoring authorities requesting assistance in the application stage.

D. Projects from sponsoring authorities seeking DOTD assistance in preparing applications will be scored and ranked with points awarded in the following manner.



Figure 1. Statewide Flood Control Program Funding Districts for Rural Projects

1. Time elapsed since initial request was made—add 1.0 point for each year up to four years since the initial request was made.

2. Local support—add up to 1.0 point for letters from the entire respective legislative delegation on file.

3. Existence of applicable surveying and engineering information within the DOTD files—add 1.0 point if vertical control has been established over the project area; 1.0 more point if no additional cross sections need to be taken; and add 1.0 more point if engineering calculations and the design are complete.

4. Severity of flooding problem documented—add the appropriate number of points based on the following document information.

Value	Occurrence	Points
0.1 point for each building damaged	x	=
0.1 point for each 300 acres flooded	Number of	
0.1 point for each landowner affected	occurrences in past	
2.0 points for loss of life	10 years	

NOTE: Priorities will be established for each funding district effective June 1 of each year. The Office of Public Works will identify pre-applications for which it will try to complete applications during June 1 through October 1 application preparation period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:90.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR

5:562 (May 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR 35:2851 (December 2009), amended by the Department of Transportation and Development, Office of Engineering), amended LR 46:

Subchapter C. Evaluation of Proposed Projects and Distribution of Funds

§315. Project Evaluation Procedure

A. The Evaluation Committee will compile a priority ranked list for the projects in each rural district and projects within urban areas each funding year. For evaluation purposes, the project classifications concern the characteristics of the benefitted area, not the design criteria or the contributing drainage area. The two project classifications are urban and rural. The urban category includes projects located in the Shreveport, Monroe, Alexandria, Lake Charles, Lafayette, Baton Rouge, Houma, Hammond, New Orleans, Mandeville-Covington, and Slidell urban areas as shown in Figure 1 above. The rural category includes every other project that is not within a classified urban area. The evaluation will be based on a combination of rating procedures described hereinafter.

B. The priority ranking of each project will be based on multiplying the scores of Parts A and B of the Application Evaluation Forms. Using the combined scores, the Evaluation Committee will produce a program priority list. The priority list will be forwarded to the Joint Legislative Committee on Transportation, Highways and Public Works.

C. Procedure for Application Evaluation Form—Part A

1. The Evaluation Committee will review each application and score it according to the following categories and maximum points.

- a. Documentation of Flood Problem—20 maximum points
- b. Local Support—5 maximum points
- c. Technical Feasibility—45 maximum points
- d. Prevention of Loss of Life and Improved Public Safety—5 maximum points
- e. Environmental Effects and Impact on Development—15 maximum points
- f. Projects Recommended but not Funded—10 maximum points

2. The following guidelines will be used by the Evaluation Committee to rate applications to the Statewide Flood Control Program. This scoring procedure pertains to projects which meet the legislative intent of the program. Projects which are technically unsound, cause unreasonable flooding in other areas, cause unacceptable or unmitigable environmental damages or otherwise do not meet the objectives of the program will not be scored.

a. Documentation of Flood Problem (20-point maximum). This category takes into consideration the adequacy of documentation which demonstrates the existence and severity of flood damages.

b. Local Support (5-point maximum). This category takes into consideration the following:

- i. letters of support on file from the respective legislative delegation;
- ii. no letters of objection from public officials, neighboring authorities, citizens groups, etc;
- iii. multiple sponsorship.

c. Technical Feasibility (45-point maximum). This category takes into consideration the following:

- i. completeness of project design;
- ii. due consideration of alternatives (structural and nonstructural);
- iii. compatibility of the project to other federal, state, and local projects;
- iv. impact on flooding in areas upstream, downstream, and adjacent to the benefitted area.

d. Prevention of Loss of Life (5-point maximum). This category takes into consideration the following:

- i. historical losses of life that may have been prevented by the project;
- ii. the degree of success of the project at maintaining access to vital services (e.g., hospitals) and protection of evacuation routes.

e. Environmental Effects and Impact on Development (15-point maximum). This category takes into consideration the following:

- i. no letters of objection from public agencies;
- ii. no impact on special historical, archeological, geological features, or environmentally sensitive areas;
- iii. not in a wetlands area;
- iv. effectiveness of the project in relation to encroachment into flood prone area (i.e., 100-year flood plain).

f. Projects Recommended but Not Funded (10 point maximum). Add points for each year (up to a four-year maximum) that the proposed project has been on the list of recommended projects but has not received funding.

D. Procedure for Application Evaluation Form—Part B

1. Ratings are computed on the basis of potential damage reductions associated with the design flood and do not include efforts to annualize benefits and costs. The same formula is to be used for rural and urban projects, and appears below.

$$\text{Part B Score} = \frac{\text{Total Damages}}{\text{Total Construction Cost}} \times \frac{90}{90 - (\text{PLM} - 10)}$$

where PLM = percent local match

*Total damages are any damages from the design storm which will be prevented by the flood control project including: agricultural crop and land damages; agricultural building damages; damages to residential, commercial, public, and other buildings; damages to roads; damages to buildings; and damages to industries.

2. For applications to the Rural Grant Opportunity Program, the following formula is used.

$$\text{Part B Score} = \frac{\text{Total Damages}}{\text{Total Construction Cost}}$$

3. In the Part B scoring process, projects are separated into their appropriate categories (i.e., rural or urban).

E. Example of Evaluations. The Evaluation Committee will calculate the scores from Parts A and B to derive the total score for each project. The priority ranking will be determined by multiplying the scores from Parts A and B for each project. In the following example hypothetical information is used to compare three projects.

1. Part A. The three projects are first scored using the Application Evaluation Form—Part A. Results for the three projects are summarized in the following table. Projects are given both a raw score and a final score. The project with the highest raw score is awarded 100 points and competing projects are awarded points based on the ratio of their raw scores to the raw score of the highest scored project multiplied by 100.

2. Part B

a. The following tables demonstrate the Part B evaluation procedure for the same three projects (assumed to be in the same rural district). The benefits data presented in the first table would be taken from the applications.

b. The damage reductions and cost data for each category shown in the following table are used to compute the raw scores shown in the table for Part B scoring. The Part B scores will then be used to obtain a final score.

Tabulation of Project Points Credited for Part A				
Category	Maximum Points	Project Points Credited		
		Flat River	Danville	Sunnyvale
Documentation of Flood Problem	20	12	17	13
Local Support	5	4	5	4
Technical Feasibility	45	36	40	27
Prevention of Loss of Life and Improved Public Safety	5	3	3	2
Environmental Effects and Impact on Development	15	1	3	2
Projects Recommended but not Funded	10	2.5	0	0
RAW SCORE	100	58.5	68	48
FINAL SCORE*		86	100	71

*The project with the highest raw score receives 100 points. The other projects receive a percentage of 100 based on their raw score relative to the project with the highest raw score.

Tabulation of Costs and Benefits			
Category	Project Damage Reduction (Dollars)		
	Flat River	Danville	Sunnydale
Agricultural Acres	118,746	600,000	40,000
Residences	4,797,000	1,000,000	350,000
C and I Buildings		50,000	1,100,000
Other Buildings		100,000	700,000
Farm Structures		200,000	100,000
TOTAL DAMAGE REDUCTION	4,915,746	1,950,000	2,290,000
CONSTRUCTION COST	1,300,000	550,000	700,000

Part B Scoring			
Scoring Category	Flat River	Danville	Sunnydale
Raw Score			
Total Damages - Construction Cost	\$4,915,746 - \$1,300,000	\$1,950,000 - \$550,000	\$2,290,000 - \$700,000
or	3.78	3.55	3.27
Additional Funding Adjustment =			
90 - (PLM - 10)	90 - (40 - 10)	90 - (10 - 10)	90 - (10 - 10)
or	1.50	1.00	1.00
Adjusted Score = Raw Score x Additional Funding Adjustment	5.67	3.55	3.27

*In this case Flat River contributed 40% (greater than the minimum) local match and therefore receives a higher score.

3. Priority Score

a. The point totals from Parts A and B are multiplied in the following table to establish scores for the priority ranking of projects to be recommended for funding.

Final Priority Scores			
Form	Project		
	Flat River	Danville	Sunnydale
Part A	86	100	71
Part B	5.67	3.55	3.27
Total	488	355	232
Rank	1	2	3

b. If these three applications were in the same district, the Evaluation Committee would recommend them for funding in the following order:

- i. Flat River;
- ii. Danville; and
- iii. Sunnydale.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:90.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 5:574 (May 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR 35:2852 (December 2009), amended by the Department of Transportation and Development, Office of Engineering, amended LR 46:

§317. Project Application Review and Public Hearings

A. The Flood Control Project Evaluation Committee will review applications between October 1 and the following April 1. During the review period, the Joint Legislative Committee on Transportation, Highways, and Public Works will conduct public hearings to solicit comments on projects being considered for funding and will determine the venue for the hearings.

B. During this time, the Evaluation Committee will also receive from the Joint Legislative Committee on Transportation, Highways, and Public Works a projected funding level for the construction program of the coming year.

C. Based on the information gathered at the public hearings and the application evaluations, the Evaluation Committee will submit a list of recommended projects to the Joint Legislative Committee, on the basis of the distribution of funds described below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:90.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 5:577 (May 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR 35:2854 (December 2009), amended by the Department of Transportation and Development, Office of Engineering, amended LR 46:

§319. Distribution of Funds

A. Maximum Statewide Flood Control Program participation is \$5,000,000 per project, unless the secretary of DOTD authorizes a project to be undertaken in excess of \$5,000,000 due to the receipt of one-time funds.

B. The distribution of program funds is based on a two-tiered system consisting of:

1.a. the eleven major urban areas in Louisiana as shown in Figure 1 (§301); and,

b. the five funding districts shown in Figure 2 (§303);

2. 45 percent of total program funds is allocated to project areas within the eleven designated urban areas as shown in Figure 1 (§301). Projects within urban areas must compete for funding with projects from all urban areas. Urban funding shall be distributed evenly among urban jurisdictions with outstanding funding obligations;

3. 55 percent of total program funds is allocated to rural projects in the five funding districts as shown in Figure 2 (§303). The formula for distributing funds among the five districts is as follows:

$$\text{District's Percent of Available Funding} = [0.50 \times (\text{District's Percent of State's Rural Land Area})] + [0.50 \times (\text{District's Percent of State's Rural Population})]$$

4. The following table presents the funding allocation percentage for each of the five districts.

Funding District	Percent of State Total		
	Rural Land Area	Rural Population	Funding Allocation
Northwest	28.589	25.745	27.167
Northeast	19.644	13.948	16.796
Southwest	18.199	18.537	18.368
South Central	16.907	22.824	19.866
Southeast	16.661	18.964	17.803
State Total	100.0	100.0	100.0

5. The total annual funding provided to projects under the Rural Grant Opportunity Program shall not exceed 25 percent of the total annual funding provided to the Statewide Flood Control Program.

C. The Evaluation Committee will make its recommendations for projects within the limitations of the funding projections for the coming year and in accordance with the distributions presented in Table 1 of this Chapter. Table 2 of this Chapter presents the funding distribution for a hypothetical \$50 million construction program allocation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:90.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 5:577 (May 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR 35:2854 (December 2009), amended by the Department of Transportation and Development, Office of Engineering, amended LR 46:

§321. Redistribution Procedure

A. In the event that there are an insufficient number of approved projects in a particular rural district, the available funds will be redistributed to the other rural districts.

B. All excess funds shall be redistributed to other districts on a pro rata basis based on each funding district's percentage of rural project funds (Table 4 of this chapter).

C. If funds allocated to the five funding districts are remaining after all approved rural projects have been funded, any remaining funds may then be used to fund approved but unfunded projects in urban areas.

D. If funds allocated to urban areas are remaining after all approved urban projects have been funded, any remaining funds may then be used to finance rural projects and shall be allocated in the same fashion as any funds initially allocated to these districts.

E. In the event that funds become available due to the expiration of the four-year period allowed sponsoring authorities to generate local matching funds, those funds previously set aside will be redistributed in the same manner as described above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:90.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 5:578 (May 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR 35:2855 (December 2009), amended by the Department of Transportation and Development, Office of Engineering, amended LR 46:

§323. Legislative Process

A. The Joint Legislative Committee on Transportation, Highways and Public Works will submit to the legislature a construction program. As specified by Act 351 of 1982, the legislature may delete any project that it believes was not selected in accordance with the guidelines of the Act. The legislature may not make any additions or substitutions to the construction program.

B. Projects recommended by the Evaluation Committee but not funded by the legislature will remain on the Evaluation Committee's recommendation list for a period of up to four years. These projects must compete with all other remaining projects from previous funding years (up to four years) and new projects in subsequent funding years. However, projects recommended but not funded will be awarded 2.5 points (10 points maximum) for each year since the first filing of the project application.

District	Total	District Total
Urban Areas	\$4,500,000	--
Rural Districts	\$5,500,000	--
Northwest		\$1,494,185
Northeast		\$923,780
Southwest		\$1,010,240
South Central		\$1,092,630
Southeast		\$979,165
Total	\$10,000,000	\$5,500,000

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:90.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 5:578 (May 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR 35:2855 (December 2009), amended by the Department of Transportation and Development, Office of Engineering, amended LR 46:

§325. Construction and Operation

A. Each sponsoring authority designated as a recipient of program funds must enter into an agreement with DOTD prior to the initiation of construction of a project and awarding of funds. This agreement stipulates what must be followed during all construction phases of the project, operation and maintenance, as well as the sponsoring authorities' obligations under R.S. 38:91. Policies and procedures that must be adhered to are detailed in the *Statewide Flood Control Program Procedural Manual for*

Funded Projects made available to all sponsoring authorities designated to receive program funding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:90.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 5:579 (May 1985), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended LR 35:2855 (December 2009), amended by the Department of Transportation and Development, Office of Engineering, amended LR 46:

Subchapter D. Rural Grant Opportunity Program

§327. Eligibility

A. This Section describes the requirements of eligibility for participation in the Rural Grant Opportunity Program.

1. In order to be considered for the Rural Grant Opportunity Program, the authority shall also submit a resolution declaring its financial inability to satisfy the local match requirement of R.S. 38:90.9(A)(4). The resolution shall include a sworn affidavit executed by the authority's private certified public accountant certifying that, after an examination of the authority's financial records, monies are not available out of the accumulated unreserved earnings generated by the authority to meet the local match requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:90.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Engineering, LR 46:

Chapter 5. Funding Applications

§501. Guidelines and Procedures for Applications for State Funding Assistance

A. Statewide Flood Control Program

1. The requests for Statewide Flood Control Program funds far exceed the amount of money made available each year. In an effort to best utilize the available funds, the following time schedules shall be incorporated into project development.

Task	Maximum Time, Years
1. Execution of Agreement Between DOTD and Sponsor	1/2
2. Application of Permits	1
3. Submittal of Preliminary Plans	2
4. Submittal of Draft Final Plans, Specifications and Cost Estimate	3
5. Acquisition of Rights-of-Way Permits and Utility Relocation and Securing the Funding for the Sponsor's Portion of the Project	3 1/2
6. Advertising for Bids and Awarding of Contract	4

2. If an approved project is authorized to be separated into multiple phases, all subsequent phases must have been advertised for bids within three years of the final acceptance resolution of the previous phase.

3. The date of the letter from the chairman of the Flood Control Evaluation Committee advising the sponsor that his project has been funded shall be used as the beginning point in determining the amount of time that has elapsed.

4. In the event a task or phase is not completed within the maximum time allotted, the agreement between DOTD and the sponsor shall be canceled and the state funds that were allocated for the proposed project shall be reallocated.

5. If the sponsor wishes to continue with the project, the sponsor shall be required to submit an updated application. If the sponsor fails to submit an updated application within two years of the date the agreement was canceled, the sponsor will be deemed to have abandoned the project and it will be removed from the program.

6. The updated application will be treated as a new application and must follow the same programmatic procedures for applying for funding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:90.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Public Works, LR 1:249 (May 1975), amended LR 12:533 (August 1986), repromulgated by the Department of Transportation and Development, Office of Public Works, LR 31:942 (April 2005), amended by the Department of Transportation and Development, Office of Engineering, amended LR 46:

Family Impact Statement

Implementation of this proposed Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability, and autonomy. Specifically:

1. The implementation of this proposed Rule will have no known or foreseeable effect on the stability of the family.

2. The implementation of this proposed Rule will have no known or foreseeable effect on the authority and rights of parents regarding the education and supervision of their children.

3. The implementation of this proposed Rule will have no known or foreseeable effect on the functioning of the family.

4. The implementation of this proposed Rule will have no known or foreseeable effect on the family earnings and family budget.

5. The implementation of this proposed Rule will have no known or foreseeable effect on the behavior and personal responsibility of children.

6. The implementation of this proposed Rule will have no known or foreseeable effect on the ability of the family or local government to perform this function.

Poverty Impact Statement

The implementation of this proposed Rule should not have any known or foreseeable impact on child, individual, or family poverty in relation to individual or community asset development as defined by R.S. 49:973. Specifically,

1. The implementation of this proposed Rule will have no known or foreseeable effect on household income, assets, and financial security.

2. The implementation of this proposed Rule will have no known or foreseeable effect on early childhood development and preschool through postsecondary education development.

3. The implementation of this proposed Rule will have no known or foreseeable effect on employment and workforce development.

4. The implementation of this proposed Rule will have no known or foreseeable effect on taxes and tax credits.

5. The implementation of this proposed Rule will have no known or foreseeable effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The implementation of this proposed Rule on small businesses, as defined in the Regulatory Flexibility Act, has been considered. The proposed Rule is not expected to have a significant adverse impact on small businesses. The department, consistent with health, safety, environmental, and economic welfare factors, has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of the proposed statutes while minimizing the adverse impact of the Rule on small businesses.

Provider Impact Statement

The implementation of this proposed rule change does not have any known or foreseeable impact on a provider as defined by House Concurrent Resolution No. 170 of the 2014 Regular Session of the Louisiana State Legislature. Specifically:

1. The implementation of this proposed Rule change does not have any known or foreseeable impact on the staffing level requirements or qualifications required to provide the same level of service.

2. The implementation of this proposed Rule change does not have any known or foreseeable impact on the total direct and indirect effect on the cost to a provider to provide the same levels of service.

3. The implementation of this proposed Rule change does not have any known or foreseeable impact on the overall effect on the ability of a provider to provide the same level of service.

Public Comments

All interested persons so desiring shall submit oral or written data, views, comments, or arguments no later than 20 days from the date of publication of this Notice of Intent to William Williamson, P.E., Department of Transportation and Development, Statewide Flood Control Program Engineer, P.O. Box 94245, Baton Rouge, LA 70804-9245.

Shawn D. Wilson, PhD
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Flood Control and Water Management

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no expected implementation costs or savings to the state associated with the proposed rule changes. The department will utilize existing staff to meet the needs of the revisions to the statewide flood control program. Also, funding levels in the program are discretionary, so the program only spends what is appropriated, generally through statutory dedications out of the Transportation Trust Fund-Regular.

The changes will affect local governmental units (local project sponsors) as the proposed rule change will implement a maximum state participation of \$5 million per project, which may require increased local participation for certain large projects exceeding \$5.5 million (state participation plus 10% local match). The proposed rule change allows the secretary of DOTD to authorize a project in excess of \$5 million in the event one-time funds are allocated or appropriated to the project. The proposed changes will benefit eligible small municipal and parish governments, as a portion up to 25% of the annual allocation shall be set aside for projects with no

local match requirement. In this scenario, the local match requirement totaling 10% of eligible project costs will be eliminated based on Act 384 of the 2018 Regular Session.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes have no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes are not anticipated to create costs to directly affected persons, small businesses or non-governmental groups. The proposed rule changes may create additional opportunities for economic benefits for small and

large businesses as the department anticipates a greater number of small projects will be bid, increasing the number of construction contracts awarded. However, the aggregate expenditure will still be limited by annual appropriation, and a greater number of small projects will be offset by decreased funds made available for large contract awards.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will likely result in more smaller projects being funded, thus increasing the number of bid opportunities for construction contracts across the state.

Shawn D. Wilson, Ph.D.
Secretary
2004#026

Evan Brasseaux
Staff Director
Legislative Fiscal Office

Administrative Code Update

CUMULATIVE: January-March 2020

LAC Title	Part #,Section #	Action	Location:		LAC Title	Part #,Section #	Action	Location:	
			Month	LR 46 Page #				Month	LR 46 Page #
1	I.111,113	Adopted	Mar.	334	46	XIX.505	Amended	Mar.	338
	III.101,103,105,301,303,305	Amended	Mar.	315		XLV.7701,7705,7709,7711	Amended	Mar.	342
	III.107,109,111,113,115,117,505,703,715	Adopted	Mar.	315		XLV.7801,7803,9902	Adopted	Mar.	339
	III.501,503,507,509,511,513,701,705,707,	Repromulgated	Mar.	315		XLV.9701,9703,9705,9709,9711,9713,	Amended	Mar.	339
	III.709,711,713,721,723,725,901,1101,1103,	Repromulgated	Mar.	315		XLV.9905,9916	Amended	Mar.	339
III.1105,1107	Repromulgated	Mar.	315	XLVII.3303,3307	Amended	Jan.	021		
4	I.101,103	Adopted	Mar.	337	48	LI.301,501,503	Amended	Jan.	023
	III.1301,1303	Adopted	Mar.	335		LI.303,505,611	Adopted	Jan.	023
	VII.2201,2203	Adopted	Mar.	331		LV.312	Amended	Mar.	400
	VII.2301	Amended	Jan.	020		I.601,603,605,607	Adopted	Mar.	356
	VII.2401	Amended	Jan.	020		I.6210	Adopted	Mar.	345
	XIII.301,303	Adopted	Mar.	335		I.8201,8235	Amended	Mar.	343
	XV.103,105	Adopted	Mar.	336		I.9781	Adopted	Mar.	344
						I.10080,10081,10082,10083,10084,10085,	Amended	Jan.	029
7	V.2901,2903,2905	Amended	Jan.	010	49	I.10086,10087,10088,10089,10090	Amended	Jan.	029
	XIII.1301,1303,1305,1307,1309,1311,1313,	Adopted	Feb.	169		IX.1101,1103,1105,1107,1109,1111,1113,	Amended	Mar.	349
	XIII.1315,1317,1319,1321,1323,1325,1327,	Adopted	Feb.	169		IX.1115,1117,1119,1121,1123,1125,1127,	Amended	Mar.	349
	XIII.1329,1331,1332,1333,1335,1337,1339,	Adopted	Feb.	169		IX.1129,1131,1133,1135,1137	Amended	Mar.	349
	XIII.1341,1343	Adopted	Feb.	169					
	XXIII.711	Amended	Feb.	169		I.501,503,509,515	Amended	Mar.	358
	XXVII.103,141	Amended	Mar.	312		I.511	Repealed	Mar.	358
22	XI.504	Amended	Jan.	042	50	I.517,519,521,523,525,529	Adopted	Mar.	358
						VI.301	Amended	Mar.	358
28	IV.703	Amended	Mar.	326	51	III.10307	Amended	Jan.	029
	IV.1501,1503,1505,1507,1509,1511	Amended	Jan.	019		VII.32901	Amended	Jan.	028
	XI.409,4001,5701,7301,7311,8307,8505	Amended	Jan.	014		VII.32917	Adopted	Jan.	028
	XXXIX.503,705,707,901	Amended	Jan.	017		XI.10703	Amended	Feb.	182
	XLIII.101,153,450,508,904,1101,1153,	Amended	Feb.	180		XI.16703	Amended	Feb.	184
	XLIII.1508,1511	Amended	Feb.	180		XV.7103,7105,9531,9533,9535	Amended	Feb.	342
	XLV.745	Amended	Mar.	324		XV.9541	Adopted	Feb.	185
	CXV.351	Adopted	Jan.	014		XV.16301,16303,16305	Amended	Feb.	184
	CXV.507	Adopted	Mar.	324		XXIX.107,111,115,119,501,949,1101	Amended	Jan.	033
	CXXXI.101	Amended	Jan.	017		XXIX.123,991,993	Amended	Mar.	345
	CXXXI.203,305,313	Amended	Mar.	324		XXIX.701,703,707,709,713,715	Repealed	Jan.	033
	CXXXI.304	Adopted	Mar.	324		XXXIII.4101,4103,4301,4303,4305,4501	Amended	Feb.	185
						XXXIII.8101,8103	Amended	Feb.	183
				XXXIII.15101,15103,15301,15303,15501,	Adopted	Jan.	027		
				XXXIII.15701	Adopted	Jan.	027		
32	I.1701,1703	Adopted	Mar.	332	52	VI.301	Amended	Mar.	358
33	IX.4901,4903	Amended	Mar.	330		VII.2707	Amended	Mar.	356
34	III.1101,1103	Adopted	Mar.	331	53	I.1002,1101,1102	Amended	Mar.	313
	V.3501,3503	Adopted	Mar.	334		I.1611	Adopted	Mar.	313
	VII.107,109	Adopted	Mar.	337		I.1701,1719	Repealed	Mar.	313
	IX.107,109	Adopted	Mar.	337					
35	I.1506	Amended	Feb.	182	55	III.451,453,455,457	Adopted	Feb.	186
37	I.1101,1103	Adopted	Mar.	333		V.555,557	Adopted	Feb.	190
	III.2101,2103	Adopted	Feb.	181	VI.901	Amended	Feb.	191	
	XIII.4503,4505,4507,4511,4513,4515	Amended	Mar.	360	IX.105,107,109,113,133,177,181,205,1513	Amended	Feb.	187	
	XIII.13705,13713,13727	Amended	Jan.	035					
	XIII.13728	Adopted	Jan.	035	58	I.1301,1503	Amended	Jan.	048
	XIII.16501,16503,16505,16507,16509,16511,	Adopted	Jan.	037		I.1901,1903,1905,1907,1909,2501,2503	Repealed	Jan.	048
	XIII.16513,16515,16517,16519,16521,16523,	Adopted	Jan.	037					
XIII.16525,16527,16529,16531,16533,16535,	Adopted	Jan.	037	61	I.1001	Adopted	Jan.	042	
XIII.16537	Adopted	Jan.	037		I.6105,6107	Amended	Feb.	179	
					III.1537,1538	Adopted	Jan.	044	
40	I.2101,2103,2105,2107,2109,2111,2113,	Amended	Feb.	194	67	III.2901,2903	Adopted	Jan.	045
	I.2115,2117,2119,2125,2127,2131,2133,	Amended	Feb.	194		V.1103	Amended	Jan.	013
	I.2135	Amended	Feb.	194		V.4901,4903,5101,5103,5105	Amended	Jan.	011
	I.2104	Adopted	Feb.	194					
	I.2111,2113,2115	Repromulgated	Mar.	364					
IV.377	Amended	Mar.	364	71	IX.101,103,105,107	Adopted	Feb.	192	
XIX.301	Adopted	Jan.	051						
43	I.2301,2303	Amended	Jan.	041	76	I.317	Amended	Feb.	193
	XXVII.103,105	Adopted	Mar.	333		V.701	Amended	Jan.	049
						VII.357	Amended	Jan.	050
					VII.537	Amended	Mar.	363	

Potpourri

POTPOURRI

Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences

Annual Quarantine Listing for 2020

In accordance with LAC 7:XV.107 and 109, we are hereby publishing the annual quarantine.

1.0 Sweetpotato Weevil

(*Cylas formicarius elegantulus* Sum)

(a) In the United States: the states of Alabama, California, Florida, Georgia, Mississippi, North Carolina, South Carolina, Texas and any other state found to have the sweetpotato weevil.

(b) In the State of Louisiana:

1) The entire parishes of: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Cameron, DeSoto, East Baton Rouge, East Feliciana, Evangeline, Grant, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Natchitoches, Orleans, Plaquemines, Pointe Coupee, Rapides, Red River, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, Washington, Webster, West Baton Rouge, West Feliciana.

2.0 Pink Bollworm

(*Pectinophora gossypiella* Saunders)

Pink bollworm quarantined areas are divided into generally infested and/or suppressive areas as described by USDA-PPQ.

Arizona

(1) Generally infested area: the entire state.

California

(1) Generally infested area: The entire counties of: Imperial, Inyo, Los Angeles, Orange, Riverside, San Bernardino, and San Diego.

(2) Suppressive area: The entire counties of: Fresno, Kern, Kings, Madera, Merced, San Benito, and Tulare.

New Mexico

(1) Generally infested area: The entire state.

Texas

(1) Generally infested area: The entire state.

3.0 Phytophagous Snails

The states of Arizona and California.

4.0 Sugarcane Pests and Diseases

All states outside of Louisiana.

5.0 Lethal Yellowing

The state of Florida.

6.0 Texas Phoenix Decline

The states of Texas and Florida.

7.0 Tristeza, Xyloporosis, Psorosis, Exocortis.

All citrus growing areas of the United States.

8.0 Burrowing Nematode (*Radopholus similis*)

The States of Florida and Hawaii and the Commonwealth of Puerto Rico.

9.0 Oak Wilt (*Ceratocystis fagacearum*)

Arkansas

Infected counties: Baxter, Benton, Boone, Carroll, Clay, Craighead, Crawford, Franklin, Fulton, Independence, Izard, Johnson, Lawrence, Logan, Madison, Marion, Mississippi, Nevada, Newton, Poinsett, Pope, Randolph, Scott, Searcy, Sharp, Stone, Washington, and Yell.

Illinois

Entire state.

Indiana

Entire state.

Iowa

Entire state.

Kansas

Infected counties: Anderson, Atchison, Cherokee, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Linn, Miami, Neosho, Pottawatomie, Shawnee, and Wyandotte.

Kentucky

Infected counties: Adair, Allen, Ballard, Bath, Bell, Boyd, Breathitt, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carter, Casey, Christian, Clay, Clinton, Cumberland, Daviess, Edmonson, Elliott, Estill, Fleming, Floyd, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harlan, Hart, Henderson,

Hopkins, Jefferson, Johnson, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Logan, McCracken, McLean, Magoffin, Marshall, Martin, Menifee, Metcalfe, Montgomery, Morgan, Muhlenberg, Nelson, Ohio, Oldham, Owsley, Perry, Pike, Powell, Pulaski, Rowan, Russell, Taylor, Todd, Trigg, Union, Warren, Wayne, and Webster.

Maryland

Infected Counties: Allegany, Frederick, Garrett, and Washington.

Michigan

Infected counties: Barry, Barrien, Calhoun, Cass, Clare, Clinton, Grand Traverse, Kalamazoo, Kent, Lake, Livingston, Manistee, Missaukee, Muskegon, Oakland, Roscommon, St. Joseph, Van Buren, Washtenaw, Wyne, and Menominee.

Minnesota

Infected counties: Anoka, Aitkin, Blue Earth, Carver, Cass, Chicago, Crow Wing, Dakota, Dodge, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Le Sueur, McLeod, Mille Laes, Morrison, Mower, Nicollet, Olmsted, Ramsey, Rice, Scott, Sherburne, Sibley, Steele, Wabasha, Waseca, Washington, Winona, and Wright.

Missouri

Entire state.

Nebraska

Infected counties:Cass, Douglas, Nemaha, Otoe, Richardson, and Sarpy.

North Carolina

Infected counties:Buncombe, Burke, Haywood, Jackson, Lenoir, Macon, Madison, and Swain.

Ohio

Entire state.

Oklahoma

Infected counties:Adair, Cherokee, Craig, Delaware, Haskell, Latimer, LeFlore, Mayes, McCurtain, McIntosh, Ottawa, Pittsburg, Rogers, Sequoyah, and Wagoner.

Pennsylvania

Infected counties:Adams, Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Centre, Clarion, Clinton, Cumberland, Erie, Fayette, Franklin, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lawrence, Mifflin, Perry, Somerset, Venango, Washington, and Westmoreland.

South Carolina

Infected counties:Chesterfield, Kershaw, Lancaster, Lee, and Richland.

Tennessee

Infected Counties: Blount, Carter, Cocke, Cumberland, Grainger, Greene, Hamblen, Hancock, Hardeman, Hawkins, Jefferson, Knox, Lincoln, Loudon, Montgomery, Rhea, Roane, Robertson, Sevier, Sullivan, Union, Washington, and White.

Texas

Infected counties:Bandera, Bastrop, Bexar, Blanco, Basque, Burnett, Dallas, Erath, Fayette, Gillespie, Hamilton, Kendall, Kerr, Lampasas, Lavaca, McLennan, Midland, Tarrant, Travis, Williamson.

Virginia

Infected counties:Aleghany, Augusta, Bath, Botetoust, Clarke, Frederick, Giles, Highland, Lee, Loudoun, Montgomery, Page, Rockbridge, Rockingham, Scott, Shenandoah, Smyth, Warren, Washington, Wise, and Wythe.

West Virginia

Infected counties:all counties except Tucker and Webster.

Wisconsin

Infected counties:Adams, Brown, Buffalo, Chippewa, Clark, Columbia, Crawford, Dane, Dodge, Dunn, Eau Claire, Fond du Lac, Grant, Green, Green Lake, Iowa, Jackson, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Lincoln, Marquette, Milwaukee, Monroe, Oconto, Outagamie, Ozaukee, Pepin, Pierce, Polk, Portage, Racine, Richland, Rock, St. Croix, Sauk, Shawano, Trempealeau, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, Winnebago, and Wood.

10.0 Phony Peach

Alabama

Entire state.

Arkansas

Counties of Arkansas, Ashley, Bradley, Chicot, Columbia, Crittendon, Cross, Desha, Drew, Hempstead, Howard, Jefferson, Lafayette, Lee, Lincoln, Little River, Miller, Monroe, Nevada, Phillips, Pike, Poinsett, St. Francis, Sevier, Union, and Woodruff.

Florida

Entire state.

Georgia

Entire state.

Kentucky

County of McCracken.

Louisiana

Parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Jackson, Lincoln, Morehouse, Natchitoches, Ouachita, Red River and Union.

Mississippi

Entire state.

Missouri

County of Dunklin.

North Carolina

Counties of Anson, Cumberland, Gaston, Hoke, Polk and Rutherford.

South Carolina

Counties of Aiken, Allendale, Bamberg, Barnwell, Cherokee, Chesterfield, Edgefield, Greenville, Lancaster, Laurens, Lexington, Marlboro, Orangeburg, Richland, Saluda, Spartanburg, Sumter, and York.

Tennessee

Counties of Chester, Crockett, Dyer, Fayette, Hardman, Hardin, Lake, Lauderdale, McNairy, Madison, and Weakley.

Texas

Counties of Anderson, Bexar, Brazos, Cherokee, Freestone, Limestone, McLennan, Milan, Rusk, San Augustine, Smith, and Upshur.

11.0 Citrus Canker (Xanthomonas Citri subsp. citri)

Louisiana

Infested parishes: Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, and St. John.

Any areas designated as quarantined under the Federal Citrus Canker quarantine 7 CFR 301.75 et seq.

12.0 Pine Shoot Beetle

[Tomicus piniperda (L.)]

Any areas designated as quarantined under the Federal Pine Shoot Beetle quarantine 7 CFR 301.50 et seq.

13.0 Citrus Greening

[Candidatus Liberibacter asiaticus]

Louisiana

Infested parishes: Jefferson, Orleans, Plaquemines, St. Bernard and Washington.

Any other areas or states designated as infested under the Federal Citrus Greening and Asian Citrus Psyllid quarantine 7 CFR 301.76 et seq.

14.0 Asian Citrus Psyllid

[Diaphorina citri Kuwayama]

Louisiana

Infested parishes: Jefferson, Orleans, Lafourche, Plaquemines, St. Bernard, St. Charles, St. James, St. Tammany, Tangipahoa and Terrebonne.

Any other areas or states designated as infested under the Federal Citrus Greening and Asian Citrus Psyllid quarantine 7 CFR 301.76 et seq.

15.0 Emerald Ash Borer

[Agrilus planipennis]

Louisiana

Infested parishes: Bienville, Bossier, Caddo, Claiborne, Jackson, Lincoln, Morehouse, Ouachita, Union and Webster.

Any other areas or states designated as infested under the Federal Emerald Ash Borer quarantine 7 CFR 301.53-3 et seq.

16.0 Roseau Cane Scale
[*Nipponaclerda biwakoensis*]
Louisiana

Infested parishes: Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Vernon, Washington, and West Feliciana.

17.0 Guava root knot nematode
(*Meloidogyne enterolobii*)

The entire states of Florida, North Carolina, and South Carolina.

Mike Strain DVM
Commissioner

2005#081

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Office of the Governor
Coastal Protection and Restoration Authority

Notice of Availability of the Deepwater Horizon Oil Spill Louisiana Trustee Implementation Group Draft Supplemental Restoration Plan and Environmental Assessment for the Cypremort Point State Park Improvements Project Modification

Action: Notice of Availability

Summary: On July 20, 2018, the Louisiana Trustee Implementation Group approved the *Deepwater Horizon* Oil Spill Final Restoration Plan and Environmental Assessment #4: Nutrient Reduction (Nonpoint Source) and Recreational Use (RP/EA #4). The Louisiana TIG is considering modifications to the Cypremort Point State Park Improvements (Cypremort Improvements) project originally described in the RP/EA #4. The modifications being considered include replacing the original proposed breakwater system project feature with construction of a recreational vehicle (RV) campground, associated infrastructure, and amenities at the park.

In accordance with the Oil Pollution Act of 1990 (OPA) and the National Environmental Policy Act (NEPA), the Federal and State natural resource trustee agencies for the Louisiana TIG prepared a Draft Supplemental Restoration Plan and Environmental Assessment for the Cypremort Point State Park Improvements Project Modification (Supplemental RP/EA). The Supplemental RP/EA evaluates modifications to the Cypremort Improvements project and alternatives considered by the Louisiana TIG under criteria set forth in the OPA natural resource damage assessment (NRDA) regulations and evaluates the environmental effects in accordance with the NEPA.

The modifications under consideration to the Cypremort Improvements project are consistent with the restoration alternatives selected in the *Deepwater Horizon* Oil Spill Final Programmatic Damage Assessment and Restoration Plan/Programmatic Environmental Impact Statement (PDARP/PEIS). This notice informs the public of the availability of the Supplemental RP/EA and provides an opportunity for the public to submit comments on the document.

Dates: The Louisiana TIG will consider public comments received on or before May 20, 2020.

Public Webinar: The Louisiana TIG will conduct a public webinar on April 28, 2020, at 12 p.m. CST. The public may register for the webinar at <https://attendee.gotowebinar.com/register/2110487686130281741>.

After registering, participants will receive a confirmation email with instructions for joining the webinar. The presentation will be posted on the web shortly after the webinar is conducted. Comments will also be taken through submission online or through U.S. mail (see Submitting Comments below).

Addresses:

Obtaining Documents: You may download the Supplemental RP/EA at <http://www.gulfspillrestoration.noaa.gov> or <http://www.la-dwh.com>. Alternatively, you may request a CD of the Supplemental RP/EA (see For Further Information Contact). You may also view the document at any of the public facilities listed at <http://www.gulfspillrestoration.noaa.gov>.

Submitting Comments: You may submit comments on the Supplemental RP/EA by one of the following methods:

Via the Web: <http://www.gulfspillrestoration.noaa.gov/restoration-areas/louisiana>

Via U.S. Mail: U.S. Fish and Wildlife Service, P.O. Box 29649, Atlanta, GA 30345. To be considered, mailed comments must be postmarked on or before the comment deadline.

During the Public Webinar: Comments may be provided by the public during the webinar on April 28, 2020.

For Further Information Contact: Beth Golden, CPRA, 225-342-4708

Administrative Record

The documents comprising the Administrative Record for the Supplemental RP/EA can be viewed electronically at <https://www.doi.gov/deepwaterhorizon/adminrecord>.

Authority

The authority for this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.), its implementing NRDA regulations found at 15 CFR part 990, the Louisiana Oil Spill Prevention and Response Act (La. R.S. 30:2451 et seq.), the implementing Natural Resource Damage Assessment Regulations found at La. Admin Code 43:101 et seq., and NEPA (42 U.S.C. 4321 et seq.).

Lawrence B. Haase
Executive Director

2005#066

Agency Hearings—Emergency Cancellations or Modifications

Agency Hearings conducted pursuant to R.S. 49:953(A)(2)(a) and R.S. 49:968(H)(2) and Meetings [Modified pursuant to Proclamations 30 JBE 2020 and 41 JBE 2020]

Department of Environmental Quality

In light of recent events, DEQ will **reschedule** the public hearing currently scheduled for March 27, 2020, on proposed rule WQ104.

If you have any questions or need more information, please contact Deidra Johnson at 225-219-4053 or Laura Almond at 225-219-3981.

Due to recent events, the Louisiana Department of Environmental Quality will **modify the format** of the administrative rules hearing currently scheduled for Tuesday, April 28, 2020, at 1:30 pm, on proposed rules HW124, OS098, and WQ104 (postponed from March 27, 2020). This will proceed **via teleconference** using the call in details: phone number: (636) 651-3182 Conference Code: 725573. The comment period for all three proposed rules from the April hearing will end on May 5, 2020, at 4:30 pm. If you have any questions or need further information, please contact Deidra Johnson at (225) 219-4053 or Laura Almond at (225) 219-3981. You may also reach them by Email at Deidra.johnson@la.gov or laura.almond@la.gov.

State Board of Embalmers and Funeral Directors

In light of recent events, the Louisiana State Board of Embalmers and Funeral Directors will reschedule the public hearing currently scheduled for March 26, 2020, on proposed rule Title 46, Part 37, 701, 905, 1701, 1901, 1902, and 2001

If you have any questions or need more information, please contact Kim W. Michel at 504.838.5109.

Department of Economic Development

In light of recent events, LED will **modify the format** of the administrative rules hearing currently scheduled for Wednesday, March 25, 2020 at 10am, on proposed rules for the Louisiana Entertainment Development Fund. This will proceed **via teleconference** using the call in details: Toll free phone number: 888-808-6929 Access Code: 9434922. If you have any questions or need further information please contact Chris Stelly at (225) 342-5555 or Chris.Stelly@la.gov.

In light of recent events, the three administrative rules hearings covering the Entertainment Development Fund (3:00 PM), Qualified Music Company (2:00 PM) and Sound Recording (1:00 PM) programs on Monday April 27, 2020 **have been modified**. These hearing will be held **via teleconference** at the three different times using the call in details: Toll free phone number: 888-431-3598. Access Code: 9434922. Participants will have to hang up and dial in again

at the scheduled times if they wish to provide input for all three rules. If you have any questions or need further information please contact Chris Stelly at (225) 342-5555 or Chris.Stelly@la.gov.

Board of Social Work Examiners

In light of recent events, the Louisiana State Board of Social Work Examiners will conduct the public hearing on the proposed changes to Rule 503 **via a Webex meeting**. The meeting is April 3, 2020 at 3:00 p.m. Meeting Link: <https://nsula.webex.com/nsula/j.php?MTID=m879337aa3bbc32bc97fb52415f76a27a> Meeting number: 960 171 364 Meeting password: 1234

Alternatively, one can join by phone 1-415-655-0003 United States Toll Access code: 960 171 364

If you have any questions or need further information please contact Emily DeAngelo at edeangelo@labswe.org.

Department of State

In light of recent events, the Louisiana Department of State will **reschedule the public hearing**, which was to be held on April 24, 2020 at 1:00 p.m. if requested, regarding a proposed rule authorizing the use of an optional commercial application programming interface (API). The deadline for the Department of State to receive public comments or a request for a public hearing will also be rescheduled for a later date. Please refer to the March 20, 2020 publication of the Notice of Intent for more information or check our website at <https://www.sos.la.gov/BusinessServices/Pages/ReadAdministrativeRules.aspx>. If you have any questions or need more information, please contact Steve Hawkland at 225-287-7472 or Ray Wood at 225-287-7475.

Board of Pharmacy

Pursuant to the provisions of *Governor's Proclamation No. 41 JBE 2020 ~ Extensions of Emergency Provisions*, the Board certifies it cannot achieve an in-person quorum for its meeting. Therefore, the Board has elected to conduct its hearing by teleconference as permitted by that same proclamation.

Notice is hereby given that a Public Hearing has been ordered and will be conducted by teleconference at 9:00 a.m. on Monday, April 27, 2020. The telephone number for the teleconference is 888.270.9936 and the access code is 9534160. The hearing has been called for the purpose to wit:

A G E N D A Revised 04-08-2020

1. Call to Order
2. Appearances
3. Solicitation of Comments on Regulatory Projects

A. Project 2019-15 ~ Drug Disposal by Pharmacies
(Potpourri Notice)

4. Opportunity for Public Comment
5. Adjourn

Louisiana Emergency Response Network

In light of recent events, the Louisiana Emergency Response Network will reschedule the public hearing

currently scheduled for April 23, 2020, on proposed rule Title 48, Part I, 18708. The public hearing is rescheduled for May 23, 2020 at 11 a.m. at the Board office, 14141 Airline Highway, Building #1, Suite A & B, Baton Rouge, LA 70817.

If you have any questions or need more information, please contact Paige Hargrove, Executive Director, at 225-756-3440 or paige.hargrove@la.gov.

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